

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY
TRIBUNALS



VOLUME V

"THE RUSHA CASE"
"THE POHL CASE"

*Germany (Territory under Allied occupation, 1945-
U.S. Zone) Military Tribunals*

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY TRIBUNALS
UNDER
CONTROL COUNCIL LAW No. 10

NUERNBERG
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CONTENTS

The RuSHA Case

[Introductory material and basic directives under which the trials were conducted together with the Einsatzgruppen Case and Sections I through V of the RuSHA Case are contained in Volume IV.]

	Page
VI. General Defenses and Special Issues.....	1
A. Introduction	1
B. Selections from the Arguments and Evidence of the Defense	3
1. Genocide	3
2. Historical Background of German-Polish Relations	5
3. Status of Occupied Poland under International Law	12
4. Conduct of the Defendants in Accordance with Valid German Law.....	21
5. Validity of Certain Provisions of the Hague Convention in a So-called "total war".....	23
6. Responsibility of Superiors for Acts of Sub- ordinates	24
7. Responsibility of Subordinates for Acts Carried Out upon Superior Orders.....	26
C. Extracts from the Closing Statement of the Prosecu- tion	30
VII. Special Circumstances Arising Out of the Earlier Extradition of the Defendant Hildebrandt to Poland.....	61
A. Extract from the Closing Statement for Defendant Hildebrandt	61
B. Statement by the Prosecution.....	69
C. Determination of the Tribunal.....	71
VIII. Final Statements of the Defendants.....	72
IX. Opinion and Judgment.....	88
Kidnaping of Alien Children.....	102
Abortions of Eastern Workers.....	109
Taking away Infants of Eastern Workers.....	112
Punishment for Sexual Intercourse with Germans....	116
Hampering the Reproduction of Enemy Nationals.....	120
Forced Evacuations and Resettlement of Populations; Forced Germanization of Enemy Nationals; Slave Labor	125
Compulsory Conscription of Enemy Nationals into the Armed Forces	144
Plunder of Public and Private Property.....	147
Persecution and Extermination of the Jews.....	152
War Crimes and Crimes Against Humanity.....	152

	Page
Count Three	154
Ulrich Greifelt	154
Rudolf Creutz	155
Konrad Meyer-Hetling	156
Otto Schwarzenberger	157
Herbert Huebner	158
Werner Lorenz	159
Heinz Brueckner	159
Otto Hofmann	160
Richard Hildebrandt	160
Fritz Schwalm	162
Max Sollmann	162
Gregor Ebner	164
Guenther Tesch	164
Inge Viermetz	164
Sentences	165
X. Concurring and Dissenting Opinion by Judge Daniel T. O'Connell	168
XI. Affirmation of Sentences by the Military Governor of the U. S. Zone of Occupation.....	170
XII. Order of the Supreme Court of the United States Denying Writ of Habeas Corpus.....	173
Appendix	174
List of Witnesses in Case 8.....	174
Index of Documents and Testimonies.....	177

The Pohl Case

Introduction	195
Order Constituting Tribunal II.....	197
Members of the Tribunal.....	198
Prosecution Counsel	198
Defense Counsel	199
I. Indictment	200
II. Arraignment	209
III. Opening Statements of the Prosecution and Defense.....	211
A. Extracts from the Opening Statement of the Prosecution	211
B. Extracts from the Opening Statement for Defendant Pohl	262
C. Opening Statement for Defendant Georg Loerner....	276
D. Opening Statement for Defendant Pook.....	280
IV. Selections from the Evidence on Important Aspects of the Case	290
A. Development and Organization of the WVHA (SS Economic and Administrative Main Office).....	290
B. The Concentration Camp System.....	348
C. Economic Enterprises and Activities of the WVHA..	481
D. Consignment of Concentration Camp Inmates to Work for Public and Private Enterprises.....	577
E. The Extermination Program ("Final Solution of the Jewish Problem")	607

	Page
F. Acquisition and Disposal of Property and Valuables of "Evacuated" Jews, "Action Reinhardt".....	692
G. Membership in a Criminal Organization, the SS....	763
V. Selections from Evidence Concerning Special Defenses....	785
A. Introduction	785
B. The Defense of Mere Organizational or Administra- tive Association	786
C. The Defense of Superior Orders and War Necessity..	801
D. The Defense of Lack of Knowledge because of Secrecy Regulations	809
VI. Closing Statements	822
A. Extracts from the Closing Statement of the Prosecu- tion	822
B. Closing Statement for the Defendant Pohl.....	865
C. Closing Statement for the Defendant Scheide.....	921
VII. Final Statements of the Defendants, 22 September 1947...	931
VIII. Judgment	958
A. Opinion and Judgment of United States Military Tribunal II	958
The Jurisdiction of the Tribunal.....	960
Count one—The Common Design or Conspiracy.....	961
Counts two and three—War Crimes and Crimes against Humanity	962
Count four—Membership in Criminal Organization..	964
Medical Experiments	971
Euthanasia	971
Treatment of Concentration Camp Prisoners.....	972
Treatment of the Jews.....	974
Looting of Public and Private Property.....	976
Action Reinhardt	977
Oswald Pohl	980
Concentration Camps	981
Destruction of the Warsaw Ghetto.....	985
Medical Experiments	986
Action Reinhardt	988
OSTI [Eastern Industry].....	990
Count four	992
August Frank	992
Heinz Karl Fanslau.....	997
Hans Loerner	999
Josef Vogt	1001
Action Reinhardt	1003
Georg Loerner	1004
Connection with W [Wirtschafts—Economic] En- terprises	1005
Supply of Food and Clothing to Concentration Camps	1008
Action Reinhardt	1009
Erwin Tschentscher	1010
Activities in the WVHA.....	1012
Rudolf Scheide	1015
Max Kiefer	1018
Franz Eirenschmalz	1023

	Page
Karl Sommer	1031
The Allocation of Inmate Labor in Amt D II of the WVHA	1032
Hermann Pook	1035
Hans Hohberg	1040
Hans Baier	1043
Leo Volk	1047
Karl Mummenthey	1051
Hans Bobermin	1056
Horst Klein	1057
Sentences	1062
B. Concurring Opinion by Judge Michael A. Musmanno..	1064
IX. Reconvening of Military Tribunal II for the Purpose of Permitting the Reconsideration of its Judgment.....	1164
X. Supplemental Judgment of the Tribunal.....	1168
Pohl	1173
Frank	1178
Georg Loerner	1180
Fanslau	1184
Hans Loerner	1186
Tschentscher	1191
Kiefer	1192
Eirenschmalz	1195
Sommer	1199
Pook	1206
Hans Baier	1207
Hans Hohberg	1212
Leo Volk	1225
Karl Mummenthey	1233
Hans Bobermin	1248
Order Confirming or Amending Original Judgment and Sentences	1251
XI. Confirmation and Reduction of Sentences by the Military Governor of the U.S. Zone of Occupation.....	1254
XII. Order of the Supreme Court of the United States Denying Writ of Habeas Corpus.....	1256
Appendix	1257
Table of Comparative Ranks.....	1257
List of Witnesses in Case 4.....	1258
Index of Documents and Testimonies.....	1260

VI. GENERAL DEFENSES AND SPECIAL ISSUES

A. Introduction

The opening statement of the prosecution (sec. III A, Vol. IV) contains argument on the broader aspects of the case and defines the charge that the defendants were involved in the premeditated plan for the destruction of entire national and ethnic groups (genocide). Since that part of the opening statement contains pertinent quotations from several documents which were later submitted, those documents are not reproduced here. For example: The treaties issued by the Office for Racial Policy of the Nazi Party in November 1939, under the title, "The Problem of the Manner of Dealing with the Population of former Polish Territories on the Basis of Racial-Political Aspects" (NO-3732, *Pros. Ex. 82*); Himmler's memorandum, "Reflection on the Treatment of Peoples of Alien Races in the East" (NO-1880, *Pros. Ex. 84*); and the "General Plan East," a document drawn up by the defendant Meyer-Hetling (NO-2255, *Pros. Ex. 90*).

The defense dealt with various problems concerning the broader aspects of the case in almost all the final statements and in its closing briefs. Documentary evidence was submitted by the defense, and the defendants when testifying stated their position on these various subjects. The Tribunal also heard testimony of several defense witnesses concerning general defenses and special issues.

In sections B 1 through B 7, selections from these arguments and evidence of the defense are set forth on the following subjects:

Genocide—Defense counsel for the defendant Greifelt dealt with genocide in his opening statement, (sec. III B, Vol. IV). He alleged that the legal concept of genocide had not yet been formulated by any of the authoritative international organizations at the time of the alleged criminal conduct, or even at the time of the trial, and hence that a charge of genocide could not be considered legally valid. He introduced an extract from the Munich newspaper, "Neue Zeitung" 14 July 1947, which has been set forth on pp. 3 to 4. An extract from the opening statement for the defendant Brueckner on the same subject follows on pp. 4 to 5.

Historical Background of German-Polish Relations—The defense argued that the methods of the German authorities in Poland, Germanization, resettlement, etc., were justified and

could only be understood on the basis of a thorough knowledge of the historical background of German-Polish relations. This point was summarized by the counsel for the defendant Meyer-Hetling in his closing statement. The complete text of this part of his statement, as read in Court, appears on pp. 5 to 6. An extract from the book, *Testimony of the Times* by Herbert Kranz, introduced by the defense, is set forth on pp. 6 to 11.

The Status of Occupied Poland under International Law—Concerning the status of occupied Poland under international law, the defense alleged that after the complete military occupation of Poland in 1939, and after the Polish Army no longer offered resistance in the field, Poland lost her sovereignty and was, at least in part, legally absorbed by Germany. Therefore, the defense argued German laws, orders, and regulations for Poland were legally binding upon the defendants. This argument was developed by counsel for the defendant Meyer-Hetling. Extracts from the closing statement pertaining to this subject appear on pp. 12 to 17. An extract from the direct examination of the defendant Hildebrandt and documentary evidence of the defense on this subject follow on pp. 18 to 21.

The Conduct of the Defendants in Accordance with Valid German Law—It was contended by the defense that the defendants generally acted in accordance with the valid German laws and therefore could not be held criminally responsible for the acts charged in the indictment. An extract from the closing statement for the defendant Ebner, dealing with this subject, follows on pp. 21 to 23.

Validity of Certain Provisions of the Hague Convention in a So-called "total war"—The defense alleged that the laws of war cited by the prosecution, and particularly certain provisions of the Hague Convention of 1907 concerning the laws and customs of war on land, were no longer applicable. The defense argued that the statesmen who drafted these provisions could not have foreseen the nature of so-called "total war", and that practically all belligerents in World War II showed that the allegedly applicable provisions were actually outmoded and invalid. This thesis, as developed in the closing statement for the defendant Hofmann, is presented on pp. 23 to 24.

Responsibility of Superiors for Acts of Subordinates—The defense further maintained that superiors could not be held responsible for acts of their subordinates under the criminal law common to all civilized nations, or under Control Council Law No. 10. This argument was developed in the closing statement for the defendant Lorenz, an extract of which is set forth on pp. 24 to 25.

Responsibility of Subordinates for Acts carried out upon Superior Orders—It was alleged by the defense that the defendants acted under superior orders in performing the acts charged as criminal in the indictment. The defense stressed the point that superior orders in a totalitarian state left no possibility for the recipient to object to them or to evade them. This argument was developed by defense counsel for the defendant Hofmann in his closing statement, extracts of which appear on pp. 26 to 28. This is followed by documentary evidence of the defense on this subject on pp. 28 to 29.

Extracts from the Closing Statement of the Prosecution—Argument of the prosecution on the general defenses and special issues treated above has been selected only from the closing statement of the prosecution. This argument appears on pp. 30 to 60. Since the prosecution has treated many of these defenses together in its final argument, it was not practical to break down the argument according to topics as has been done in the case of the defense material in the preceding sections.

B. Selections from the Arguments and Evidence of the Defense

I. GENOCIDE

TRANSLATION OF GREIFELT DOCUMENT I GREIFELT DEFENSE EXHIBIT I

EXTRACT FROM NEWSPAPER ARTICLE "UNITED NATIONS CONVENTION AGAINST GENOCIDE", 13 JULY 1947, AS PUBLISHED IN THE NEUE ZEITUNG

Extract from the "Neue Zeitung" of 14 July 1947, 3d year

(No. 56, p. 5)

"UN Convention against Genocide"

Washington 13 July (DENA/CANS)

On 10 June the Secretary's Office of the United Nations completed the first draft of an international convention for the punishment of government officials who attempted to exterminate racial, religious, national, or political groups. This draft establishes the extermination of large groups or of a whole people as a punishable act according to international law and calls upon member states of the United Nations to pass legislation to that

effect. Three distinct types of "genocide" are listed in this draft. According to this draft, every country is to have the right to arrest individuals who violate this international convention and to try them before its own courts even if the crime has been committed in another state. The first category includes not only open mass murder but also the housing of people under conditions which would make death probable for reasons of health as a result of starvation or other inhuman treatment. The second category describes sterilization of large groups and forcible separation of families as "biological genocide". Deliberate destruction of the intellectual and cultural life of a nation is "cultural genocide".

*EXTRACT FROM THE OPENING STATEMENT FOR
DEFENDANT BRUECKNER*¹

* * * * *

All of Brueckner's actions, which have been charged with being crimes against humanity must, therefore, be examined with a view to whether they violate rules of *the international law generally acknowledged*. In addition, it is necessary to ascertain whether my client knew of them, and whether he in defiance of these rules, without reason, arbitrarily and maliciously violated the individual rights of persons or participated in such deeds by abetting them.

This problem which has only been briefly touched upon in this connection does not become clearer in its outlines, much less is it solved by the prosecution's introducing the conception "genocide" in regard to the crimes against humanity with which Brueckner is charged. A comparison between the verbal charge of the prosecution with the analysis of "genocide" published by Raphael Lemkin in 1944²—"A *new* expression and a *new* conception for the extermination of nations," shows that both agree in their ideas and in their motives, even in the quotations. The charge has, however, even been extended since Lemkin does not mention the resettlement or repatriation of groups of ethnic Germans residing outside the borders of the Reich as being "genocide." This would also make his train of thought entirely inconsistent as the very aim of his work is the rescue of ethnic groups.

Quite apart from this, the statements of Lemkin show unequivocally and doubtlessly that the conception "genocide" is no generally acknowledged conception in international law. As early as October 1933 it was rejected in its initial form presented by

¹ Complete opening statement is recorded in mimeographed transcript, 20 November 1947, pp. 1303-1326.

² "Axis Rule in Occupied Europe," by Raphael Lemkin, Carnegie Endowment for International Peace, Washington 1944.

the author at the international conference for the simplification of criminal law in Madrid. Lemkin himself draws the conclusion from this that the charge of "genocide" as a *crime* is not possible, because an international convention does not exist. This was probably the reason for the prosecution's attempt to put the concept "genocide" as a crime on the same level as a crime against humanity. Thus we have the same question before us again, namely the question which we asked at the beginning during the investigation of the concept "crime against humanity," and the same misgivings remain. In addition, this coupling together of terms violated the basic principle of justice determined by the International Military Tribunal "*nullum crimen sine lege, nulla poena sine lege*", which needs no further explanation.

* * * * *

2. HISTORICAL BACKGROUND OF GERMAN-POLISH RELATIONS

a. Selection from the Argumentation of the Defense

EXTRACT FROM THE CLOSING STATEMENT¹ FOR DEFENDANT MEYER-HETLING

Your Honors, a proper comprehension of the problems discussed in this trial is possible only if the Tribunal is not influenced in its opinion by the period of 1939-1945 and sees the events under discussion against their whole historical background.

I am leaving out the historical aspect and come now to conditions in 1918.

In spite of the Minorities Protection Agreement of 1919, whereby Poland promised equal treatment to "all Polish nationals belonging to a racial, religious, or language minority,"² the time from 1919 to 1939 is characterized by constant violations of this agreement.

Up to 1938, approximately 610,000 hectares (1,525,000 acres) of German soil had been lost by liquidation and agricultural reform in the territories surrendered in 1919. This does not include the land expropriated by the abolition of the estates of the Prussian Settlement Commission, or state property and forest lands. These categories cover a further 500,000 hectares (1,250,000 acres).

¹ Complete closing statement is recorded in mimeographed transcript, 16 February 1948, pp. 4925-4953.

² Compare agreement between the Allied and the associated powers and Poland on 28 June 1919. [Footnote in transcript to defendant's closing statement.]

Thus, if the prosecution now claims that the Incorporated Eastern Territories are not German soil, they either refuse to acknowledge these de-Germanization processes, or purposely conceal this fact. It may be correct that in 1939 only 7 percent Germans remained in the areas under discussion, while 86 percent of the population were Poles. But in 1918, for example, there were still 70 percent Germans there, while only 30 percent Poles had their permanent residence in West Prussia.

The Versailles peace treaty which, as was only recently admitted again by American spokesmen, has never been a scholastic example of wisdom and moderation, and could not solve the old problem of national minorities. On the contrary, where the map of Europe had been changed, hotbeds of national conflict had been created. President Wilson's idea of national self-government, doubtlessly based on high moral principles, was used one-sidedly in the Versailles Treaty, and more or less as a pretext or instrument to weaken the beaten enemy's position in Europe. This could not but give fresh impetus to the already exaggerated historical and national consciousness of the European nations or our ill-assorted continent. At the same time it inevitably led to new and greater difficulties in the application of the principles of nationality because of the existence of small and even minute language islands and ethnographically mixed areas.

* * * * *

b. Selections from the Evidence of the Defense

TRANSLATION OF SCHWALM DOCUMENT 126
SCHWALM DEFENSE EXHIBIT 126

EXTRACT FROM "TESTIMONY OF THE TIMES" FROM THE HISTORY
OF THE EAST

*EXTRACT FROM
TESTIMONY OF THE TIMES [ZEUGNIS DER ZEITEN]
ARCHIVES, DOCUMENTS, MEMOIRS
FROM THE HISTORY OF THE EAST
HERBERT KRANZ*

[Page 370]

The Struggle for Souls

When the time of rebellions against the German domination had passed in the East, the struggle for souls began. Educational associations and agricultural assistance funds became the means of Polonization, carried out with uncanny energy; and one of

the main agents of this silent war, at which the government was a mere passive onlooker, was the Polish Catholic clergy.

The so-called "Bamberg" villages near Poznan were a striking example of the disappearance of German folkdom in the East, which could not maintain itself against the persevering Polish counter-measures because it was not supported by the German Government.

At the beginning of the eighteenth century, Poznan and its surroundings were a pitiful sight. The Nordic war had destroyed the city's prosperity and innumerable persons had perished from the plague. The villages belonging to the city were almost deserted; in one of them there still lived an old woman and a small child. Thereupon the city council called immigrants "of staunch Catholic faith" from Franconia and Wuerttemberg and concluded with them the following settlement treaty.

*Settlement Treaty
in Nomine Domini*

The three authorities of the royal city of Poznan, to wit, the Lord Mayor and Council, the Provost and Courts of Justice, as well as the Council of Twenty and the chamberlains as stewards and administrators of all estates and villages belonging to the above-mentioned city, on 1 August *anno domini* 1719,

Be it herewith known to all, especially those concerned, now and in times to come, that amid our villages which belong to the city of Poznan there is among others a village named Luban, which village was completely destroyed a few years ago by the Swedish war and other disasters, as well as by the horrible plague with which Almighty God has afflicted our city and our whole country, and which in the year of the Lord 1709 denuded our towns and villages of men; we have been greatly concerned how to repopulate this village and to fill it again with people. For this purpose we have announced certain freedoms for several years for such people as might be found who would settle in the above-mentioned village of Luban. Thus, it came to pass that foreigners from Germany, members of a free nation, and from the Duchy of Franconia, presented themselves before our courts and authorities, asking to be accepted and to be permitted to settle in the above-mentioned village of Luban. We thereupon acceded to their requests and accepted them, considering how necessary it was to populate the above-mentioned village of Luban the sooner the better, and because these people also belonged to the Roman Catholic apostolic faith and did not wish to roam any longer in foreign countries. We further considered that the Germans love order, are good husbandmen, are obedient in all

things, willingly pay the ordinary levies and other taxes at the proper time, do their duty at court without constraint, and are found to be obedient to all duties and orders. We therefore accept and permit these German people to settle and take abode in the above-mentioned village of Luban, to cultivate or plough all lands such as fields, meadows, pastures, and cultivated ground; to use them as best possible for their profit; but under the condition that they agree to undertake all the duties which are customary in an industrious village community and which are profitable to the good of the entire city. So that these people and their heirs may forever exactly follow the said conditions, the latter are set down as follows:

“I. So that posterity may know what people and farmers have been accepted, the latter are listed here with their Christian and surnames. The first of them is called Georg Seylemen, his wife has a son and a daughter and he is a freeholder * * *.”

*German Parents, German Children,
and Polish Prayers*

At last, nine villages were populated with these “Bambergers” (who had not all come from the district of Bamberg). Until the middle of the nineteenth century they also considered themselves as German immigrants. Then, in the forties of the nineteenth century the Poles sent the word round that Poznan must become entirely Polish, and the clergy took over this task of Polonization. The penalty had now to be paid for always allowing “Catholic” to be identified with “Polish” and “Protestant” with “German”. Now the parish priest could tell his credulous people that the Pope was a Pole and that the Catholic religion was a specifically Polish one.

*From Official Examination Reports on the School of
the Village of Wilda*

1836 the Provost of St. Martin, Maximilian Kamienski reports as follows:

“Reading in this (Polish) language was only fair. The cause of this is the native language of the children who are all German, and still cannot cope very well with the Polish pronunciation.”

Among 65 school children, nine were of Polish nationality.

In 1841 the same provost reports:

“There is only little progress in Polish reading as the children are of German origin and have no knowledge whatever of the Polish language.”

In the year in question, out of 108 children, 99 were of German nationality.

1843—"All pupils are German, therefore the lessons are given exclusively in German."

1845—"The school is attended by children of almost (!) German descent, with the exception of a few Polish children. The few Polish children know the German language."

1849—"The school is a German one."

1851—"The school is a German one."

Thus, the above-mentioned provost reports on the national, namely the German, character of the school. Nevertheless, in the same year 1851 he charged the then teacher Mathias von Ciszewski to impart religious instruction to the children in Polish, and to teach them the prayers, the angelic salutation, etc., in Polish. When the said teacher pointed out to the provost that this was not feasible because the children, who always used their Bamberg dialect and could hardly speak high German, let alone Polish, and hence would not be able to understand the contents and the meaning of the prayers in Polish, the provost cut short these objections with the reply: "Chociaz téz nie rozumiele, kiedy tylko umieli," (it does not matter even if they do not understand them, as long as they know them).

The Provost Kamienski repeatedly remonstrated with the teacher about this. He said that he could do so all the more because the teacher Kaliski in Ratai, on the order of Provost Pluszczewski, was also teaching prayers in Polish to the children of the school in that place, although these too were Germans.

The Protests of the Parents

In the village of Ratai, to which the provost and the government referred, the Germans, on 18 August 1856, protested against the attempts to Polonize their children.

The "Bambergers" Are Completely Polonized

The Prussian Major General von Boguslawski reports:

"In the year 1855 I went to Poznan for the first time; the language of the indigenous farmers in those villages was exclusively German, and furthermore, they could speak excellent high German as well as the southern dialect of their forefathers. In 1860 I was recalled from Poznan, and in the fall of 1866 I came to Poznan for the second time. I found that nearly all the older people were still speaking German but the young people to a large extent were speaking Polish. Upon the outbreak of war 1870 I left Poznan and later on lived there again from 1875 until 1883. To my surprise nearly

everybody in those villages answered in Polish when spoken to in German by me, and only the oldest people could speak German. Now, at the end of the century, the Polonization has long been completed and nobody in those villages speaks a word of German anymore. Hence, the Polonization of several thousand Germans was carried out by the church and the school before the gates of the provincial capital, the fortress of Poznan, under the eyes of the highest state and school authorities. According to a very low estimate, the number of Catholic Germans Polonized in the last fifty years in the province of Poznan amounts to 200,000 * * *."

Bismarck in the Prussian Parliament

From the great speech of 9 February 1872—

The complaint we have against the clerical school inspections in the provinces where Polish is not predominant but is spoken, is based on the fact that they do not accord to the German language its lawful right but endeavor to have the German language neglected and not taught; and the teacher whose pupils have made progress in the German language, does not get a good mark from his clergyman. To this, you have to add, that until now under the former minister for education and religion most such positions as Schulrat [school superintendent] with the governments, i.e., the highest provincial authorities, were filled with people who for unknown reasons favored these trends although they were of German nationality, favored the teachers in half-Polish districts whose pupils did not learn German, and were much more strict with those in whose classes the children made good progress in the German language. This has helped to bring about the fact that today we have communities in West Prussia which formerly were German, where now the younger generation no longer understand German, after having been in our possession for a hundred years, have been Polonized.

This is an excellent testimony for the vitality and efficiency of Polish propaganda, but perhaps this Polish propaganda only thrives on the good-naturedness of the state. But let those gentlemen not overestimate this good-naturedness, for, I can tell you, it has come to an end! And we shall know what we owe to the state! I have been told that they will present further requests and complaints in favor of the Polish language; we will counter them with bills fostering the German language, also for the province of Poznan.

For it is necessary for the indigenous population to know how to judge for themselves the state in which they are living, and not to depend upon a deceptive representation which has

been translated into their own language by wiser and more educated people while they themselves are unable to form their own judgment. We believe it to be an imperative need that each citizen should be given the opportunity to form his own opinion of the government which is over him, and for this it is necessary that the German language should be fostered more than before, and an understanding for that fact should be given to vaster circles. The legislation for education and all the bills we are going to present to you must be animated by this sentiment. We have waited for a long time. For a hundred years we have been expecting results from a different procedure. In future we will model our procedure more or less on the one which, for example, has been observed by France in Alsace to the great satisfaction of the Alsatians.

* * * * *

Bismarck reports:

For me, the beginning of the "Kulturkampf" [the struggle between the State and the Catholic church] was overwhelmingly due to its Polish aspect. Since the renunciation of Flottwell's and Grolmann's policy, and the consolidation of Radziwill's influence on the king and the establishment of a "Catholic Section" in the Ministry of Religion, statistics have left no doubt of the speedy progress of Polish nationalism in Poznan and West Prussia to the detriment of the German. In Upper Silesia the hitherto staunchly Prussian elements of the "Wasserpolacken" have been polonized; Schaffranek was elected to parliament there, the same who as a speaker in parliament confronted us in the Polish language with the proverb about the impossibility of brotherly concord between the German and the Poles. Such a thing was possible in Silesia only because of the official authority of the "Catholic Section." When a complaint was lodged with the sovereign Bishop (Heinrich Foerster), Schaffranek was forbidden to "sit" on the left when he was re-elected; in consequence, this strongly built priest would stand to attention like a sentry for five or six hours, and in the case of double sessions for ten hours a day in front of the benches of the left, and had no need to get up when he took the floor for an anti-German speech. According to the evidence of official reports, thousands of Germans and whole village communities in Poznan and West Prussia, who had been officially listed as Germans by the former generation, had been brought up as Poles through the influence of the "Catholic Section" and had been officially classed as "Poles". Owing to the authority which had been bestowed on this section, this state of things could not be remedied without the abolition of the latter * * *"

3. STATUS OF OCCUPIED POLAND UNDER INTERNATIONAL LAW

a. Selections from the Argumentation of the Defense *EXTRACT FROM THE CLOSING STATEMENT FOR DEFENDANT MEYER-HETLING **

* * * * *

The prosecution considers the conduct of the defendants, in as far as it concerns the so-called Incorporated Eastern Territories, as constituting war crimes, i.e., infringements of the Hague Land Warfare Convention. This assertion presupposes that the Incorporated Eastern Territories did not become parts of Germany by virtue of the incorporation, but remained parts of Poland.

The questions as to whether the annexation of these Polish territories by Germany was in accordance with international law, or in contravention of it, is therefore of decisive importance for the result of this trial. In the statements now following I have examined this subject from the point of view of international law and on the basis of various examples I have shown the position at that time.

In support of my legal views I shall now proceed to cite a few examples of law practiced in various states, especially those that have appointed the IMT [International Military Tribunal].

First of all the *United States*. The "Instructions for the Government of the Army of the United States in the Field", promulgated in May 1862, whose author was the lawyer Francis Lieber an immigrant from Europe, which later formed part of the basis for the Hague Land Warfare Convention, contain the article 33 which I submitted as Meyer-Hetling 54, Meyer-Hetling Exhibit 54 in the Meyer-Hetling document book. These "instructions" are based quite clearly on the assumption that the full conquest of part of the enemy country already suffices for the annexation of that part while the war still continues. General Pope's order, issued on the strength of these instructions (*Meyer-Hetling 55; Meyer-Hetling Ex. 55*) provides that the population of these parts of the Confederate States which had been occupied by Federal troops were to take the oath of allegiance to the United States, failing which, they would be expelled from the occupied area. It is true that this order was strongly criticized in the United States at the time, however, it is not clear whether

* Complete closing statement is recorded in mimeographed transcript, 16 February 1948, pp. 4925-4953.

this criticism was directed against the expulsion clause or the demanded oath of allegiance. At any rate what is important is that the United States never revoked the order.

As the last important precedent, showing the British views on the problem of admissibility of annexations during a war, is the British statement on the *annexation of Polish territory by the Russians* in 1939. This annexation was recognized as legal while the war was still on. In his book, "Frankly Speaking", the former Secretary of State James F. Byrnes, quotes a remark which British Prime Minister Churchill made at the Yalta conference, which was printed as follows in the New York Herald Tribune (European edition), of 18 October 1947:

"Prime Minister Churchill pointed out, that he supported the Curzon line and the Soviet Union's claim for Lemberg [Lvov] in Parliament. The Soviet Union's claim, he said, 'is not founded on violence but on right'."

If two countries do the same thing, each annexing parts of a fully occupied country which has ceased to be a powerful factor, then this is regarded as lawful in one case and unlawful in the other, according to whether this identical act was committed by an ally or an enemy.

Another case seems a particularly good example. In the Potsdam Agreement of 2 August 1945 the Big Four recognized the Soviet Union's annexation of the northern part of the German province of East Prussia, including Koenigsberg (*Meyer-Hetling 65 and 66, Meyer-Hetling Exs. 65 and 66*). It is true that certain reservations were phrased in such general terms that they can at best be regarded as resolute clauses. Anyhow, they were meanwhile eliminated because of the way in which the other parts of the agreement treated the annexation as final throughout. This is particularly clearly demonstrated by the way in which the Soviet elections were carried out against which neither the British nor the Americans raised objections.

The annexation of the German province of East Prussia at a time when the armies of one of Germany's allies—Japan—were still in the field, is therefore no different from the annexation of Polish territory by the Soviet Union and Germany in October 1939. Against the argument that there was this difference between the two annexations, that at the time the Potsdam Agreement was concluded, Japan's surrender was imminent, it must be said that in 1939-40 Germany and her then friend, the Soviet Union, were likewise the undisputed lords of the European continent. As things were then nobody could have expected that the restoration of Poland through British armies landing on the continent would ever become a reality.

The survey on the practice of states as outlined above would be incomplete if I omitted the most significant document pertaining to this question. It is the "Declaration of the Victorious Powers Concerning Germany's Defeat," 5 June 1945 (Official Gazette of the Control Council, Supplement No. 1, p. 7) and in the sixth paragraph of the preamble it is stated expressly:

"The Governments of the United Kingdom, the United States of America, and the Union of Soviet Socialist Republics, and the Provisional Government of the French Republic will hereafter determine the boundaries of Germany, or any part thereof, and the status of Germany or any area at present being part of Germany."

In this connection I should like to emphasize that two months prior to Japan's capitulation, therefore at a time when one of Germany's allies was still fighting, the victorious powers solemnly and unambiguously permitted the unilateral annexation of parts of a defeated country while the battle was still raging. I hardly imagine a more obvious refutation of the legal conception established by the IMT.

However, the defendants accused here will, over and above that, have to be given credit for the fact that particularly important reasons led to the conception that the Polish State was completely subjugated and dissolved following the events of September 1939. The war between Germany and Poland, which started on 1 September 1939, led to the complete military collapse of Poland within a few weeks, as I have already explained. The Polish Army was dispersed. Its greater part was captured by German troops. A few scattered divisions crossed the border into neutral Hungary, where they were subsequently interned. The Polish Government resigned. A new government was only gradually formed abroad. On 17 September 1939 Soviet forces marched into Poland, occupied the parts of Poland not yet in German hands, and took prisoner the remainder of the Polish Army still there. Thus the entire Polish territory was occupied and its army completely annihilated. The material prerequisites for a declaration of annexation had thus been created. *And only that is the crucial point.* Thus the diplomatic note of the Polish Ambassador in Washington, dated 27 October 1939, referred to in the official record of the Justice Case *, loses its significance.

According to recognized practice in international law, the material prerequisites for subjugation or conquest of a state do not include the dissolution of the government and the abdication of the sovereign, after all the territorial and sovereign influence

* Case of the United States vs. Josef Altstoetter, et al. See Vol. III.

has been eliminated. If the government and sovereign flee to other countries, their activity abroad in connection with the admissibility of the annexation, is of no importance under international law, even if they should still be recognized diplomatically by individual states. For instance, it was never doubted that neither the former president of the Transvaal, Oom Kruger, nor the former Negus [King, later emperor] of Abyssinia, Haile Selassie, were able to render the annexation of the Transvaal by England or that of Abyssinia by Italy legally invalid through protests from their European exile. International law, true to its tendency to make established facts legally valid, sees in the actual cessation of state power during a war the authority to eliminate the legal status of a state as well. On the other hand, the possibility of restoring the extinct state power by future events, such as the victory of an ally, is not taken into consideration at all.

It must be deduced therefrom that the fifth partition of Poland—the events of September 1939 may be seen in that light—was an annexation in accordance with international law.

But the fact that not only these two states (Germany and the Soviet Union) were of the opinion that the former Polish State had been dissolved, is also revealed by parts of its territory being surrendered to a third state. Thus according to the agreement of 10 October 1939 the area of the town Vilna [Vilnyus] was surrendered to Lithuania by the Soviet Union (*Meyer-Hetling 68, Meyer-Hetling Ex. 68*), and Germany conveyed a strip of land in the Carpathian Mountains to Slovakia in accordance with the agreement of 21 November 1939 (the Slovak Constitutional Law of 22 December 1939). (Compare *Meyer-Hetling 69, Meyer-Hetling Ex. 69 and Hildebrandt 127, Hildebrandt Ex. 57.*)

Sweden's attitude is also characteristic. On 20 November 1939 the German Foreign Office informed the Swedish Embassy in Berlin verbally, that in the opinion of the Reich Government, the conditions under which Sweden had assumed the protection of Polish interests in the German Reich had been eliminated by the recent developments, and that therefore, the protective mandate of the Swedish Embassy could be considered as concluded. The Swedish Government did not contradict this communication, and thus revealed that it also recognized the annexation of the Western Polish territory by Germany as well as that of the Eastern Polish parts by the Soviet Union. (*Hildebrandt 127, Hildebrandt Ex. 57.*)

To summarize this, it may therefore be stated that the actual facts justified the conception that the State of Poland which

had hitherto existed had been dissolved, and that the incorporation of parts of the Republic of Poland into the German Reich and into the U.S.S.R. was not contrary to the practice of states according to international law.

But even if the Tribunal should not be convinced that this section was legal according to international law it would, in my opinion, at least have to deny the defendants' guilt in view of the abundance of the evidence submitted. The legal arguments presented show that the questions under discussion are so involved and so difficult, that in support of the German conception numerous weighty reasons can be given from the practice of states and from theory, and that the defendants acted in an excusable error when they assumed that Germany was entitled to the annexation of Poland. Such an error on a preliminary question, which has nothing to do with actual penal law, is against a conviction by the court, according to the generally acknowledged principles of penal law.

May I also point out the following in connection with the personal aspects of the case:

Following a formulation in the IMT verdict, the Tribunal in the Justice case * stated that the principles of justice and fairness would have to be fully applied. It then continues:

"Applied to the sphere of international law, this principle requires proof prior to conviction that the defendant knew, or had to know, that in matters pertaining to international law he was guilty of participating in a system of injustice and persecution organized by the state, which offends the moral code of humanity, and that he knew, or had to know, that he would be punished in case of apprehension."

None of the defendants here participated in the relevant legislation. None of the laws submitted by the prosecution bear the signatures of any of the defendants. The decision of questions pertaining to international law was not even within the sphere of competence of the departments represented here by the defendants. When the question of the establishment of German Reich laws in the Incorporated Eastern Territories became acute, the Reich Ministry of the Interior as the ministry in charge of the operation, obtained a legal opinion from the Foreign Office, which dealt with the question of legality of such a step under international law. The former State Secretary in the Reich Ministry of the Interior Dr. Stuckart, confirmed this in his affidavit of 2 December 1947 (*Meyer-Hetling 52, Meyer-Hetling Ex. 52*). The Wehrmacht authorities were also doubtful of Poland's posi-

* *Ibid.*, see judgment.

tion according to international law after she was occupied by Germany. On 15 April 1940 the High Command of the Wehrmacht therefore addressed an inquiry to the Foreign Office, which contained the following statement:

“A clarification of this question, and all others pertaining to it, seems necessary. It concerns the Wehrmacht to a considerable degree (the necessity to adhere to the Hague Rules of Land Warfare, treatment of prisoners of war etc.)” (*Hildebrandt 57, Hildebrandt Ex. 127*).

The formulation of this letter, which was inspired by a feeling of great responsibility and which refers to the possible consequences resulting from the applicability of the Hague Rules of Land Warfare, shows how much importance the High Command of the Wehrmacht attached to the Foreign Office's decision, and proves how carefully it sought a clarification. The Foreign Office replied to this inquiry in the following secret letter of 15 May 1940:

“On the other hand, the formation of a Polish shadow government abroad [exile government] after the disintegration of Poland is of no legal significance. * * * Neither can the further continuation of the Polish State be deduced from the fact that its former diplomatic representations have placed themselves in the service of the shadow government, or because military formations composed of Polish nationals have been established in France and England. * * *

“With reference to the last paragraph of the letter of the High Command of the Wehrmacht, dated 15 April 1940, the Foreign Office suggests that the Supreme Reich authorities as well as the Governor General of the occupied Polish territories and the Reich Protector in Bohemia and Moravia be informed of the aspects outlined above and in the inclosure.” (*Hildebrandt 57, Hildebrandt Ex. 127*).

With his letter of 22 June 1940, the Reich Minister and Chief of the Reich Chancellery, Dr. Lammers, actually distributed to all Reich Ministries the Foreign Office's opinion pertaining to international law.

b. Selections from the Evidence of the Defense

EXTRACT FROM THE TESTIMONY OF DEFENDANT HILDEBRANDT¹

DIRECT EXAMINATION

* * * * *

DR. FROESCHMANN (Counsel for defendant Hildebrandt): Witness, you are speaking about a "final German border". Did you not, at the time, think about the fact that the measures of evacuation and resettlement took place when there was not yet a peace treaty in existence between Germany and Poland?

DEFENDANT HILDEBRANDT: In the campaign, which lasted 18 days, Poland was completely conquered and occupied. The Polish troops, for the most part, were in Germany as prisoners of war, and an effective government was no longer in existence. Smigly-Rydz who was marshal at that time, had become a refugee, and you may still remember how little joy England especially showed at his presence on British soil.

Q. Did Smigly-Rydz not make a special statement at that time?

A. Yes. He did. Smigly-Rydz made a statement when he left Polish territory to the effect that Poland could probably not rise again for 150 years. According to national law and international law, I myself, like all Germans at the time thought that it was nonsense to say that the Polish State was still in existence.

Let us assume, hypothetically, that Goebbels² or Goering³ had been able in April 1945 to flee into a neutral country and set up a government there, a so-called government in exile. In that case probably not one member of such a government would have been recognized as a representative of the government of the German people. This is clear to everyone who sees things as they really are. For instance, the Spanish Government in exile, which is now in Southern France, does not change in the least the actual situation, namely that Franco is the Chief of State in Spain and will probably remain so. To this must be added that the Soviet Union, on the strength of the German-Russian Declaration of September 1939, also declared that the Polish State and the Polish Government had actually ceased to exist. The Soviet Union, therefore, annulled logically, all treaties between herself and Poland, and at the same time marched her troops into the Polish territory of the Ukraine and White Russia. At that time no one could assume that the Soviet Union, then a neutral power, would annex

¹ Complete testimony is recorded in mimeographed transcript, 19-21 January 1948, 2 February 1948; pp. 3874-4120 and 4771-4774.

² Reich Minister for Propaganda.

³ Defendant before International Military Tribunal. See Trial of the Major War Criminals, Vols. I-XLIII, Nuremberg, 1947.

territories of the Polish Republic and incorporate them into her state if she had not also been convinced of the justice of her action. Britain certainly protested, but the treaty of aid between Poland and Britain that is, the treaty of April 1939, did not lead to any results. That is to say, no consequences resulted, and they did not declare war on Russia.

Besides, as far as West Prussia and as far as the Warthegau were concerned, these were Gau territories and provinces incorporated into the German Reich. They were former German territories which had belonged to Prussia since the year 1793 that is, they had belonged to Poznan since the Congress of Vienna in 1815, and so had belonged to Germany since 1817.

For all these reasons I viewed the actual situation in the same way as the Hague Land Warfare Convention provides for the actual surrender of the enemy. I was absolutely convinced that the measures taken by the German Reich Government in the re-incorporated territories were justified, even before an official peace treaty was concluded, and were in effect an actual result of sovereignty and were therefore not illegal.

I would like in this connection to point out two parallel cases of the most recent history; that is, the re-incorporation of Alsace-Lorraine into France, and the Sudetenland into Czechoslovakia.

* * * * *

TRANSLATION OF GREIFELT DOCUMENT 98
GREIFELT DEFENSE EXHIBIT 98

OFFICIAL CORRESPONDENCE CONCERNING THE SIGNIFICANCE
OF THE COLLAPSE OF THE POLISH STATE FROM THE POINT OF
VIEW OF INTERNATIONAL LAW

Reich Minister and Chief of the
Reich Chancellery

RK. 393 Bg [File number] Please quote this file number in future
reference.

Berlin W8, 22 June 1940
Voss-Strasse 6

[Stamp]

Mail is without exception to be directed to the Berlin address.

[Stamp] Secret!

[Stamp] 28 June 1940

[Stamp of the Reich Ministry of Justice, Dep. V, dated 27
June 1940]

[Initial] Schlegelberger,* 27 June

* Acting Minister of Justice. Defendant in case of the United States *vs* Josef Altstoetter, et al., vol. III.

To the Highest Reich Authorities

I beg to enclose herewith copies of letters from the Foreign Office and the Supreme Command of the Armed Forces, concerning the significance of the collapse of the Polish State from the point of view of international law, requesting confidential handling.

[Signature] DR. LAMMERS

* * * * *

Foreign Office
R 620 g

Berlin, 15 May 1940

[Stamp]

Secret

Re: The significance of the collapse
of the Polish State from the point
of view of international law.

1 Enclosure.

Enclosed you will find the copy of a letter from the Supreme Command of the Armed Forces concerning questions of international law resulting from the collapse of the Polish State. The Foreign Office agrees with the concept held by the Supreme Command of the Armed Forces on the whole. As far as international law is concerned, the following is to be added to the letter of the Supreme Command of the Armed Forces:

A Polish State, at war with the German Reich does not exist any more. The territories of the former Polish Republic, have—after the annihilation of the Polish Army—been put under the sovereignty of other states. In the German-Soviet Border Agreement and Friendship Pact of 28 September 1939 (Reich Law Gazette, 1940, part II, page 4), this factual and legal state of affairs is especially emphasized by the fact that the preamble mentions “the collapse of the hitherto existing Polish State”, and article 1, as well as the appendix, speak of the territory of the “former Polish State”. The unpublished German-Slovak Border Agreement of 21 November 1939, which was the basis for the incorporation of the former Polish border territory into the Slovak State territory, mentions the “former Polish State”, and the Slovak Constitutional Law of 22 December 1939 (Slovensky Sakonnik, part 71) on the annexation of these territories, mentions the “former Polish Republic”. The Foreign Office’s verbal note of 20 November 1939 to the Swedish Embassy in Berlin, which is mentioned in the letter of the Supreme Command of the Armed Forces, represents the same concept. In this note the

Foreign Office informs the Swedish Embassy that the assumptions on which the Swedish Government based its acceptance of responsibility for the protection of Polish interests in the German Reich, in the opinion of the Reich Government no longer exist, owing to the development of events. The protective mandate by the Swedish Embassy has consequently to be regarded as terminated.

The proposed organization of a Polish shadow [exile] government outside Poland, after the collapse of the Polish State, is of no legal significance. Various states, such as Hungary and Italy, have met the situation by leaving the notification of the organization of the shadow government unanswered. The facts that the former Polish diplomatic representatives are serving the shadow government, and that military formations consisting of Polish nationals have been organized in France and England, do not imply the continued existence of a Polish State. Furthermore, the continuation of the war by England and France, the Allies of the former Polish Republic, against Germany, represents no factor against the extinction of the Polish State.

With reference to the last paragraph of the letter by the Supreme Command of the Armed Forces of 15 April 1940, the Foreign Office wishes to suggest that the highest Reich authorities, as well as the Governor General for the occupied Polish territories and the Reich Protector for Bohemia and Moravia, be informed of the viewpoints mentioned above and in the enclosure.

However, the Foreign Office does not desire that this letter, especially the arguments about the extinction of the Polish State, become publicly known.

Acting for:
To the Reich Minister and
Chief of the Reich Chancellery

[Signed] WEIZSAECKER ¹

4. CONDUCT OF THE DEFENDANTS IN ACCORDANCE WITH VALID GERMAN LAW

EXTRACT FROM THE CLOSING STATEMENT FOR DEFENDANT EBNER ²

* * * * *

The Lebensborn started its activities based upon and in accordance with the Decree 67/I of the Staff Main Office. The Staff Main Office was a supreme Reich authority, i.e. it was on the

¹ State Secretary in Foreign Office. Defendant in case of the United States *vs.* Ernst von Weizsaecker, et al., vols. XII, XIII, XIV.

² Complete closing statement is recorded in mimeographed transcript, 18 February 1948, pp. 5206-5210.

same level as a Reich ministry, and had been authorized in accordance with the constitution to pass legally binding decrees in its particular field, like a ministry.

Consequently, the Decree 67/I both to the German citizen and the Lebensborn was a law endowed with all the guarantees of binding force as such. Therefore, the first aspect to be dealt with is the question whether this fact in itself cancels the criminal responsibility for the Lebensborn, as it did no more than to comply as ordered with a German law which was binding for it. This question is closely linked to the general problem of to what extent, or whether at all, reference can appropriately be made to a national law to exempt individual persons from any criminal responsibility as far as international law is concerned, or whether each individual citizen is obliged under international law personally to examine his government's laws for their legality and validity under international law, and to adjust his actions in accordance with whatever result he arrives at—whether he should obey the law or resist it considering the consequences which would arise for him by his actions as a matter of course.

As the most recent achievement in its development, international law has established criminal responsibility of the individual under international law. Control Council Law No. 10, which according to prevailing views is a partial codification of currently valid international law, which specifies the criminal responsibilities applicable to the individual, in Article II, section 7c, has answered the above-mentioned question in the negative, i.e., whether reference to national laws can exclude responsibility under international law as applied to crimes against humanity. This rejection of exculpating circumstances based on national law requires, however, a restrictive interpretation because of reasons connected with international law. In keeping with its character, international law is not so much a product of abstract reasoning, but is rather the general precept which common sense prescribes for all human activities. Cardozo's question, "How does the precept work? Is it a sensible rule for the governance of mankind," is far more justified in the face of the difficult attempts to codify international common law than anywhere else. One criterion for determining whether a principle can be approved in the light of international law is the question, among others, whether it is reasonably consistent with the practical functioning of any national legal system, in other words, the question of legal security. This, however, would be totally incompatible with the fact of demanding of each individual citizen without exception that he himself should examine the national laws by which he had to abide for their value under international law. Logically

applying this ruling, it would be found that any such unrestricted interpretation would bring about a lessening of sovereignty for national states, and under the present constitution of international law, would establish a situation of legal insecurity. This state of affairs would not be confined to jeopardizing the existence of national states, but would even imperil the structure of human society altogether. This consideration in itself appears to be serious enough to demand a less sweeping classification of such persons who would be eligible to examine the equity of their government's laws from the point of view of international law. The great American legal expert and scholar, Benjamin N. Cardozo, in his publication "The Growth of the Law" (Eighth edition, 1946, p. 49) proposes how to draw the line—"If there is any law which is back of the sovereignty of the state, and superior thereto, it is not law in such a sense as to concern the judge or lawyer, however much it concerns the statesman or the moralist." It will be left to legal findings and the continued development of international law to determine and specify those boundaries. However, one aspect appears to me certain: that the man in the street, the ordinary common man, will have to be excluded from this circle where only statesmen and leading personalities in public life should belong. And I believe that these broad limits will suffice to arrive at the conclusion that the defendants of the Lebensborn society do not come into the category of such persons who, because of their position, had this particular obligation which belongs to the sphere of international law. I am of opinion therefore, that the Lebensborn defendants have no such criminal responsibility, because they acted within the law which was binding for them, and which they were not bound to examine for its legality from the aspect of international law, irrespective of the fact whether this law violated international law or not.

* * * * *

5. VALIDITY OF CERTAIN PROVISIONS OF THE HAGUE CONVENTION IN A SO-CALLED "TOTAL WAR"

*EXTRACT FROM THE CLOSING STATEMENT FOR DEFENDANT HOFMANN **

* * * * *

Of the offenses enumerated in Control Council Law No. 10, only war crimes and crimes against humanity connected with the war are involved in this case. It is well known that "shavings fly when one is planing." This particularly applies to warfare. Where

* Complete closing statement is recorded in mimeographed transcript, 17 February 1948, pp. 5077-5112.

killing is permitted by international law as in war, it is unavoidable that in a battle of life and death both sides overstep the limit of what is allowed. This applies even more to modern warfare, which obviously can only be waged in the form of total war. Already in the First World War, the previous customs of war as laid down by the Hague Convention on land warfare were violated by the use of poison gas and by the economic blockade. In the Second World War, all this has been greatly surpassed by the increased capacity of the armaments industry necessarily involving compulsory labor; by bomb warfare, which does not spare women and children; by the so called V-weapons; by the atom bomb; and, last but not least, by the biological issues involved in the conflict with the Slavonic peoples. The provisions of the Hague Land Warfare Convention could not apply to this development.

* * * * *

6. RESPONSIBILITY OF SUPERIORS FOR ACTS OF SUBORDINATES

*EXTRACT FROM THE CLOSING STATEMENT FOR DEFENDANT LORENZ **

* * * * *

In time the VoMi became an organization of large dimensions. At the climax of its activity it administered between 1,500 and 1,800 camps. (*Tr. p. 2955.*) This organization had been set up during the war. Thus it did not only suffer from the deficiencies which afflicted every office set up in the Third Reich, namely, the evidently intentional lack of clarity with which regulations of competency were drawn up by the highest ruling powers, especially Himmler, but it also suffered from the personnel problems conditioned by the war. As a result it is understandable that the right man was not always at the right place, and that events took place which were not desired by the administration. So far as the administration heard of such incidents, it always intervened. (*Lorenz 69, Lorenz Ex. 56.*) In most cases it probably did not hear of them at all.

This ascertainment leads to the question as to what extent Lorenz can be made responsible according to criminal law for the actions of the persons subordinated to him, presuming that the activity of his subordinates comes under any given criminal law including the Control Council Law. This question necessitates a definition of the concept of participation, as contained in Article II, 2, of the Control Council Law. If a subordinate of Lorenz

* Complete closing statement is recorded in mimeographed transcript, 17 February 1948, pp. 5012-5048.

committed an action which, let us suppose, represented a war crime or a crime against humanity within the meaning of the Control Council Law, then in any case Lorenz himself cannot be considered as a perpetrator or as an accomplice in the sense of Article II, 2a and b. If he did not know of the act, then he also could not have participated in it through his consent (Art. II, 2c), nor could he have been then related to the planning or the carrying out of an action (Art. II, 2d), the intent and execution whereof he did not know. There remains therefore solely the question of whether in such cases Article II, 2e of Control Council Law can be applied, that is to say, whether Lorenz belonged to an organization or association, namely the VoMi, which was connected with the execution of the crime. The wording of the law shows that the organization or association must have had such a relation to the crime, whether its entire purpose was a criminal one, or whether it resorted to criminal means in the execution of its tasks. The criminal aspect thus must be connected with the organization as such; individual excesses on the part of subordinates; the overstepping of the sphere of competency in isolated cases; all the acts of subordinate elements insofar as they did not systematize and thereby draw the organization as such into the chain of crimes; do not make the chief of the organization responsible, according to Article II, 2e. Moreover, since section II, 2e belongs to the definitions of participation, the accomplice must have willed and consequently have been conscious of the criminal result which was to be brought about by another.¹ Insofar as crimes of subordinates should thus exist, it is a question of Lorenz's knowledge. For this reason all the verdicts of the American Military Tribunals to date have attached decisive weight to such knowledge. As the verdict of the American Military Tribunal II against *Pohl et al.*, states,² a consenting knowledge in the sense of a positive attitude is essential. The premises for this must be proved by the prosecution. The principles also apply to the relations of Lorenz with Behrends. Behrends was a very independent, ambitious worker. Lorenz did not know, and could also not foresee, what steps Behrends would resort to and what attitude he would take to particular problems. A responsibility of Lorenz for possible actions on the part of Behrends, which would be relevant before this Court, can thus be established only if Lorenz knew of the measures taken by Behrends and approved of them. In this respect also the burden of proof lies with the prosecution.

* * * * *

¹ "Das Organisationsverbrechen", Haensel, 1947, p. 36.

² *United States vs. Oswald Pohl, et al.*, Case 4, Judgment, Sec. VIII A.

7. RESPONSIBILITY OF SUBORDINATES FOR ACTS CARRIED OUT UPON SUPERIOR ORDERS

a. Selection from the Argumentation of the Defense

*EXTRACTS FROM THE CLOSING STATEMENT FOR DEFENDANT HOFMANN **

* * * * *

The principle that the Hague Land Warfare Convention, as such, is binding on states only, follows from the fifth paragraph of the preamble of this Convention—

“According to the views of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war, as far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants.”

From Article I of the Hague Land Warfare Convention I quote:

“The Contracting Powers shall issue instructions to their armed land forces which shall be in conformity with the Regulations respecting the Law and Customs of War on Land, annexed to the present Convention.”

In any case, it was an established conception in Germany and on the continent that political or material claims based on international law could be addressed to states only, because the international law then existing affected only states. This principle has been set aside by Article VII of the Charter of the IMT, which reads, and I quote:

“The official position of defendants, whether as Heads of State or responsible officials in Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment.”

Now, it follows from the nature of a modern state that it sets up a large and efficient administrative machinery. As usual in a totalitarian state, this machinery was much larger in the National Socialist State than it is in the western democracies. Practically everything was organized and even over-organized. It is obvious that an enlarged organization also implies a higher degree of division of labor and at the same time a division of responsibility. On the one side stands the dictator who took upon himself the over-all responsibility, with a few other leaders in whom comprehensive

* Complete closing statement is recorded in mimeographed transcript, 17 February 1948, pp. 5077-5112.

responsibility was concentrated, such as Goering, Himmler, and others. All these men are dead. On the other side is the gigantic administrative machinery of the state. Certain cogs of this machinery you find as defendants in this Court.

The truth is, of course, that those actually responsible were not able to attain their aims without the administrative machine. On the other hand, however, the individual officials of the numerous departments belonging to that machine were hardly in a position, beyond the functions specially assigned to them, to keep themselves informed of the activities of the other departments; still less to examine the lawfulness of their actions. On the contrary, the Germans were brought up in a way which caused them to presume as a matter of course that state measures were lawful and legal and to feel that it was improper to question them. This applied even more to the National Socialist dictatorship, under which the German nation placed all its trust on Hitler and invested him with all-embracing powers. It applied still more in war time, when it was not only considered an improper interference to question the measures of other departments but it constituted at the same time a violation of the secrecy regulations then in force.

In this proceeding, the charge is of participation in a systematic government program of genocide. The question in issue is, therefore, whether and to what extent participation within the meaning of criminal law can be established. The relevant provisions are in Article II, paragraph 2 of Control Council Law No. 10.

These forms of participation are defined in such a sweeping way that they could apply to all branches of the entire State and Party machinery. Such interpretation, however, is barred by the London Agreement of 8 August 1945, according to which only the "major war criminals" are to be punished.

* * * * *

It has been an axiom at all times that the occupying power must apply the law of the occupied country. The main purpose of this principle is the protection of a defendant. It is also based on the consideration that habits and customs vary in the different countries, and—a point which I consider particularly important in this connection—the fact that the administrative machinery and the division of responsibility vary. Different standards are applied. In this case, your Honors, you are applying a law which overrides the national laws of the individual states. But except for common crimes committed in war, this law can affect only those persons whose special responsibility puts them apart from the ordinary members of the machinery of administration. It can only apply to those to whom the rules of international law are addressed. It cannot be the task of this Tribunal to lose itself

among the extreme ramifications of the administrative set-up. This must be left to the district courts, in this case to the de-Nazification courts established for this very purpose.

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b. Selections from the Evidence of the Defense

**TRANSLATION OF GREIFELT DOCUMENT 83
GREIFELT DEFENSE EXHIBIT 83**

EXTRACT FROM "COMMENTARY ON THE GERMAN CIVIL SERVANTS' LAW OF 26 JANUARY 1937", ENTITLED "LIMITS TO THE DUTY OF OBEDIENCE"

Extract from Commentary on the German Civil Servants' Law of 26 January 1937, Berlin 1937, by Dr. Richard Schneider, Max Eggerdinger, and Dr. Kurt Hanke

[Page 60]

II. Limits to the Duty of Obedience

a. Towards superiors. Because superiors, as well as subordinated civil servants are subject to the general and specific duty of obedience, and because an order to a subordinate which deviates from this duty constitutes a violation of duty, obedience is subjected to a limitation with respect to directives the execution of which would be contradictory to penal law. The civil servant must not obey such an order or he will render himself guilty of violation of duty. *If other than penal laws are violated, the civil servant is obliged to carry out the respective official order.*

* * * * *

**TRANSLATION OF GREIFELT DOCUMENT 85
GREIFELT DEFENSE EXHIBIT 85**

EXTRACT FROM "COMMENTARY ON THE GERMAN CIVIL SERVANTS' LAW OF 26 JANUARY 1937", ENTITLED "EXAMPLES OF ACTIONS IN VIOLATION OF DUTY"

Extract from Commentary on the German Civil Servants' Law of 26 January 1937, by Dr. Richard Schneider, Max Eggerdinger, and Dr. Kurt Hanke

[Page 72]

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m. Examples of actions in violation of duty (Omission and Commission)

In conclusion are several examples from the decisions of the Reich Disciplinary Court, which are concerned with light and severe cases of actions in violation of duty:

1. Disparaging remarks against the National Socialist concept of the State, offending the sentiments of colleagues. Judgment of 15 December 1936 (vol. 1937, p. 31).

2. Distribution of illegal communist mischief-making papers. Judgment of 6 January 1931 (vol. 1937, p. 33).

3. Stubborn and continued participation in the North German sect of Jehovah's Witnesses. Judgment of 7 January 1936 (vol. 1937, p. 35).

4. Inadmissible criticism of Government and Party measures and negative attitude towards the Winter Relief Organization. Judgment of 18 March 1936 (vol. 1937, p. 36).

5. Removal of a poster directed against political Catholicism, posted publicly by the NSDAP. Judgment of 11 May 1936 (vol. 1937, p. 42).

6. Cloaking of a Masonic Lodge by taking an attitude which creates the impression that the defendant is an enemy of the State. Judgment of 11 August 1936 (vol. 1937, p. 43).

7. Remarks directed against National Socialist ideology. Judgment of 2 March 1936 (vol. 1937, p. 76).

8. Remarks made in public against Party and State, offending the public sentiment. Judgment of 22 April 1936 (vol. 1937, p. 78).

9. Remarks which, although their exact wording does not contain a derogatory statement concerning the Fuehrer and other leading personalities of the movement, intend, however, according to their sense, an inappropriate joke. Judgment of 4 February 1936 (vol. 1937, p. 74).

10. Neglecting to denounce a colleague who has been guilty of communist propaganda. Judgment of 11 November 1935 (vol. 1936, p. 75).

11. Education of the son abroad in an ideology alien to the nation. Judgment of 14 March 1935 (vol. 1936, p. 87).

12. Insidious activities causing damage to the NSDAP. Judgment of 9 April 1935 (vol. 1936, p. 89).

13. Marxist attitude. Judgment of 21 March 1934 (vol. 1935, p. 69).

14. Use of communist forms of greeting. Judgment of 1 October 1935 (vol. 1936, p. 30) and 18 September 1935 (vol. 1936, p. 78).

* * * * *

C. Extracts from the Closing Statement of the Prosecution *

MR. SHILLER: May it please the Tribunal:

Today we approach the end of this proceeding which began on 20 October 1947. Fifty-seven trial days have been consumed, nine hundred and four exhibits have been introduced by the prosecution and over one thousand by the defense. Thirty-two witnesses have been heard for the prosecution and eighty-four for the defendants, and the record comprises 4,780 pages.

This Tribunal was established for the particular purpose of hearing and deciding this one case. It was constituted pursuant to international agreement, and the crimes with which these defendants are charged are crimes under international law. The result of this trial is the concern of all the people of the world, and the judgment in this case will become a part of the body of international law and will be a precedent for the guidance of all the civilized nations of the world for years to come.

The crimes with which the defendants are charged include murders, brutalities, cruelties, tortures, atrocities, deportations, enslavement, plunder of property, persecutions, and other inhuman acts.

But the importance of the issues to be settled here cannot be measured in terms of trial days, exhibits, and witnesses, nor does the mere listing of the crimes, grave and shocking though they are, properly indicate the seriousness of the task which your Honors have here undertaken, or tell why it was considered proper to bring these charges before a specially established tribunal having the jurisdiction and dignity of an international court. The thing that makes this case so important and justifies its being brought before this international Court is the motive which prompted the commission of these criminal acts and the fact that the concerted effort with which they were carried out threatened, and very nearly accomplished, the destruction of entire nations.

The motive in this case was what the Nazis termed the "Strengthening of Germanism," which was their way of describing a program that has generally been known as "genocide."

These defendants are not charged with the generic crime of genocide as such, but are specifically charged with many criminal acts which had a clear genocidal purpose—that of strengthening

* Complete closing statement is recorded in mimeographed transcript, 18 February 1948, pp. 4781-4844.

Germany through the destruction of her neighbors. To judge these defendants this motive must be considered, as Military Tribunal III in Case No. 3, the Justice Case,¹ said:

“We think that a tribunal charged with the duty of enforcing these rules will do well to consider, in determining the degree of punishment imposed, the moral principles which underlie the exercise of power.”

Genocide, as practiced by the Nazis, was a two-edged sword, both aspects of which were equally criminal. The positive side, according to the German concept, was the Germanization program by which they sought to strengthen themselves by adding to their population large groups of people selected from among the populations of the conquered territories, and by forcing the German language, culture, citizenship, and ideals upon those so selected. The negative side of this program, through which the so-called positive side was in equal measure accomplished, was the deliberate extermination and enslavement of the remaining population of these conquered territories. Thus, Germany would be strengthened by adding to its population, and its neighbors would be weakened by subtracting from their population, and the strength of Germany would thereby be proportionately increased.

It is the first time in history that such elaborate plans were laid and such appalling crimes committed in an effort to carry out a program of genocide. Only by learning the truth about this criminal plan, by making a permanent record of what is learned, and by punishing the perpetrators of these enormous crimes, can it be hoped to forestall the development of similar schemes in the future.

There have been trials by other Military Tribunals here at Nuernberg in which defendants were charged with participation in certain phases of this genocidal program.² But in those cases it was primarily the negative side of the program, that is, the actual extermination of populations that was involved. The case at bar is the first where the entire program of Germanization and genocide with all its ramifications has been completely brought to light. The Office of the Reich Commissioner for the Strengthening of Germanism, with which all the defendants in this case were directly or indirectly connected, was created for the particular purpose of planning and executing this program, and it is this office and its satellites with which the evidence in

¹ Case of the United States *vs.* Josef Altstoetter, et al., vol. III.

² United States *vs.* Oswald Pohl, et al., vol. V; United States *vs.* Otto Ohlendorf, et al., vol. IV; United States *vs.* Josef Altstoetter, et al., vol. III; United States *vs.* Karl Brandt, et al., vols. I and II. See also trial before International Military Tribunal, Trial of the Major War Criminals, vol. I, Nuremberg, 1947.

this case is primarily concerned. Nowhere else can the world gain so complete a picture of the extremes to which the Nazis went in their attempts to carry out this program as in the record of this proceeding.

The crimes charged here were not committed in a heat of passion brought on by over-zealous wartime patriotism. These were premeditated acts. They had long been contemplated and their seeds are to be found in the avowed aims of the Nazi Party itself. On 5 January 1919, not two months after the conclusion of the armistice which ended the First World War, the Nazi Party had its beginning and adopted a platform. This program, which remained unaltered until the Party dissolved in 1945, consisted of twenty-five points. The first four points contain the Nazi doctrines of Lebensraum and the inferiority of other races, which were the immoral bases for the detailed program launched during the war.

“*Point 1.* We demand the unification of all Germans in the Greater Germany, on the basis of the right of self-determination of peoples.

“*Point 2.* We demand equality of rights for the German people in respect to the other nations; abrogation of the peace treaties of Versailles and St. Germain.

“*Point 3.* We demand land and territory for the sustenance of our people, and the colonization of our surplus population.

“*Point 4.* Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently no Jew can be a member of the race * * *¹

Throughout the years that followed the first pronouncement, the members of the Nazi Party and the world in general were constantly reminded of the objectives of the Nazis. Hitler’s “*Mein Kampf*,” the Nazi bible, continued to preach the same doctrine. This book was published about 1925 and, as the International Military Tribunal judgment expressed it,

“* * * was no mere private diary in which the secret thoughts of Hitler were set down. Its contents were rather proclaimed from the house tops. It was used in the schools and universities * * *. By the year 1945 over 6½ million copies had been circulated. The general contents are well known * * *”²

“The second chapter of book one of *Mein Kampf* is dedicated to what may be called the ‘Master Race’ theory, the doctrine of Aryan superiority over all other races, and the right of

¹ Trial of the Major War Criminals, *op. cit. supra*, pp. 174-175.

² *Ibid.*, p. 187.

Germans in virtue of this superiority to dominate and use other peoples for their own ends. * * * 1

"The greatest emphasis was laid on the supreme mission of the German people to lead and dominate by virtue of their Nordic blood and racial purity; and the ground was thus being prepared for the acceptance of the idea of German world supremacy.²

With the launching of the wars of aggression by the Third Reich, it became possible to put these noxious principles into practice. By the middle of 1940, a very definite plan was being effectuated. This is shown by the top secret document which Himmler wrote, entitled "Reflections on the Treatment of Peoples of Alien Races in the East." This treatise by Himmler was given to Hitler and was approved by him. On 28 May 1940, in a memorandum attached to this highly secret document, Himmler stated that he had shown it to Hitler a few days before, and that—

"The Fuehrer read the six pages and considered them very good and correct. He directed, however, that only very few copies should be issued; that there should be no large edition, and that the report is to be treated with utmost secrecy." (NO-1881, Pros. Ex. 85.)

Hitler agreed that the report would be considered as a directive; that one copy could be given to Lammers, who in turn was authorized to divulge its contents to four or five of the highest ranking Reich Ministers and Gauleiter [district leaders]; that another copy might be given to Bormann,³ who was Hitler's right-hand man; another to the defendant Greifelt; and still another to the chief of the Race and Settlement Main Office, who at that time was the defendant Hofmann.

Here is what Himmler had to say with reference to the copy given to Greifelt:

"One copy was given to the chief of my office, SS Brigadier General Greifelt, in his capacity as Reich Commissioner for the Strengthening of Germanism. I shall give him the order to inform in turn all chiefs of the Main Offices, as well as first the five concerned Higher SS and Police Leaders, East, North East, Vistula, Warthe, and Southeast, and to have a report made on this subject in the same manner. The notification to the chiefs of the Main Offices shall be effected by an SS leader who will have to wait until the concerned chief of the Main Office has read the report and has acknowledged it by his

¹ Ibid., p. 180.

² Ibid., p. 182.

³ Defendant (*in absentia*) before International Military Tribunal. See Trial of the Major War Criminals, vols. I-XLII, Nuremberg, 1947.

signature. At the same time everyone has to confirm that he has been informed of the fact that this is to be considered as a directive, but that it shall never be laid down in an order of one of the Main Offices; neither in form of a mere excerpt nor from memory.

"Moreover SS Brigadier General Greifelt is authorized to bring the contents of the report to the attention of the town mayor Winckler and his own collaborators; the latter he shall suggest to me." (NO-1881, Pros. Ex. 85.)

Greifelt, pursuant to this, acknowledged receipt of the document and asked permission, which was granted, to inform the defendant Creutz and the defendant Meyer-Hetling of the contents of the document.

This document was considered so secret that Himmler ordered that no part of it should ever be written down in an order by anyone else, either by copying it or by writing any of it from memory. It was not feared that by divulging its contents the objectives sought to be gained might be lost. This was not a plan under which the prospective victim had to be taken by surprise in order to insure its success. This was not the reason for all the secrecy. The people who were the victims of its provisions had already been completely subdued by the military forces of the Third Reich and could do nothing to change their dire fate. Himmler and Hitler wanted to keep this document secret because they realized how inhuman and revolting to a normal person such a criminal program would be. When a plan was so criminal that Himmler and Hitler were ashamed of it, it indeed must have been horrible.

An examination of these "Reflections on the Treatment of Peoples of Alien Races in the East," of which the defendants Greifelt, Creutz, Meyer-Hetling, and Hofmann had first-hand knowledge, will explain why even these evil men were ashamed of it. The treatise starts off by naming various ethnic groups that make up the population of the so-called Government General of Poland and observes that these people must not be allowed to unite. It provides that—

"There must be no centralization towards the top, because only by dissolving this whole conglomeration of peoples of the General Government amounting to fifteen millions, and of the eight millions of the Eastern provinces, will it be possible for us to carry out the racial sifting which must be the basis for our considerations: namely selecting out of this conglomeration the racially valuable and bringing them to Germany and assimilating them there." (NO-1880, Pros. Ex. 84.)

Himmler's plans with reference to the Jews and Poles were different. The directive goes on to say:

"I hope that the concept of Jews will be completely extinguished through the possibility of a large emigration of all Jews to Africa or some other colony. Within a somewhat longer period it should also be possible to make the ethnic concepts of Ukrainians, Goralen, and Lemken disappear in our area. What has been said for these fragments of peoples is also meant on a correspondingly larger scale for the Poles." (NO-1880, Pros. Ex. 84.)

Himmler then orders that some of the children are to be kidnaped and others are to be brought up in ignorance and slavery.

"A basic issue in the solution of all these problems is the question of schooling and thus the question of sifting and selecting the young. For the non-German population of the East there must be no higher school than the four-grade elementary school. The sole goal of this school is to be—

"Simple arithmetic up to 500 at the most; writing of one's name; the doctrine that it is a divine law to obey the Germans; and to be honest, industrious, and good. I do not think that reading should be required.

"Apart from this school there are to be no schools at all in the East. Parents, who from the beginning want to give their children better schooling in the elementary school, as well as later on in a higher school, must make an application to the Higher SS and the Police Leaders. The first consideration in dealing with this application will be whether the child is racially perfect and conforming to our conditions. If we acknowledge such a child to be as of our blood, the parents will be notified that the child will be sent to a school in Germany and that it will permanently remain in Germany." (NO-1880, Pros. Ex. 84.)

Himmler then showed that he was conscious of his guilt and made excuses for his actions by saying that it was better to make slaves of these people than to exterminate them. The directive goes on to say:

"Cruel and tragic as every individual case may be, this method is still the mildest and best one if, out of inner conviction one rejects as un-German and impossible the Bolshevik method of physical extermination of a people.

"The parents of such children of good blood will be given the choice either to give away their child—they will then probably produce no more children so that the danger of this sub-human people of the East obtaining a class of leaders, which, since it would be equal to us, would also be dangerous for us,

will disappear, or else the parents must pledge themselves to go to Germany and to become loyal citizens there. The love towards their child, whose future and education depends on the loyalty of the parents will be a strong weapon in dealing with them." (NO-1880, Pros. Ex. 84.)

This manly repugnance to extermination was very short lived, to say the least of it, as our proof has shown. After describing how the kidnaped children are to be treated, this directive concludes:

"The population of the General Government during the next ten years, by necessity and after a consistent carrying out of these measures, will be composed of the remaining inferior population supplemented by the population of the Eastern provinces deported there, and of all those parts of the German Reich which have the same racial and human qualities (for instance, the parts of the Serbs and Wends).

"This population will, as a people of laborers without leaders, be at our disposal and will furnish Germany annually with migrant workers and with workers for special tasks (roads, quarries, buildings). They themselves will have more to eat and more to live on than under the Polish regime and, though they have no culture of their own, they will under the strict, consistent, and just leadership of the German people, be called upon to help the work of its everlasting cultural tasks, its building, and perhaps, as far as the amount of heavy work is concerned, will be the ones to make the realization of these tasks possible." (NO-1880, Pros. Ex. 84.)

This was how the plan looked in the early part of 1940. The Office of the Reich Commissioner had been established several months before and it had a department for planning, propositions, and suggestions. We do not know whether the defendants who were Himmler's advisers at the Staff Main Office suggested this plan or not, but we do know that the documents which we have introduced showing deportation, evacuations, forced Germanization, and kidnappings are ample proof that the defendants in this case did everything in their power to carry out this criminal directive and, had it not been for the defeat of the German armies, the entire plan would have been carried through to Himmler's complete satisfaction and twenty-three million people would have been dissolved. As it was, the Polish nation was very nearly destroyed by this diabolical scheme.

The defendants may contend that this was Himmler's plan and they had nothing to do with the preparation of it. Our only answer to this is that whether they had anything to do with the preparation of the plan or not, the things which they actually did fol-

lowed the directive to the letter. The things which Himmler here "prophesied" came to pass, and it was through the activities of these defendants and their collaborators in the Staff Main Office, VoMi, RuSHA, and Lebensborn, that they did come to pass.

These defendants and the four organizations which they ran, the Staff Main Office, VoMi, RuSHA, and Lebensborn, were the leaders in both the planning and the execution of this criminal common design.

Poland was invaded on 1 September 1939 and all organized resistance was broken within a few weeks. Now was the time for Hitler to implement the criminal program. He wasted no time. On 7 October 1939, approximately five weeks after he had started his invasion of Poland, he issued the decree on which the common plan for the Strengthening of Germanism was based. The decree appointed the notorious Heinrich Himmler, Reich Leader SS and Chief of the German Police, as the executioner of the program. Inasmuch as this decree forms the basis for all the crimes which were committed, we take the liberty of quoting a part of it so that the Tribunal may get its full import. The document not only speaks for itself but it tells the whole story.

"The consequences which Versailles had on Europe have been removed. As a result, the Greater German Reich is able to accept and settle within its space German people who up to the present had to live in foreign lands, and to arrange the settlement of national groups within its spheres of interest in such a way that better dividing lines between them are attained. I commission the Reich Leader SS with the execution of this task in accordance with the following instructions:

"I

"Pursuant to my directions the Reich Leader SS is called upon:

"1. To bring back those German citizens and racial Germans abroad who are eligible for permanent return to the Reich.

"2. To eliminate the harmful influence of such alien parts of the population as constitute a danger to the Reich and the German community.

"3. To create new German colonies by resettlement, and especially by the resettlement of German citizens and racial Germans coming back from abroad." (*NO-3075, Pros. Ex. 20.*)

The three things which Himmler was called upon to do under this decree covered a multitude of sins. Those sixty-four words set the stage for what proved to be one of the most revolting tragedies ever perpetrated on a large group of peoples. This was the cue that set off a series of war crimes and crimes against

humanity such as the world had never known. One little phrase "eliminate the harmful influence of such alien parts of the population" meant death and destruction for millions; "create new German colonies by resettlement" meant deportation and enslavement and eventual death for further millions.

Hitler, Himmler, and the Nazis had been waiting for their opportunity for a long time and, just as Hitler lost no time in issuing this decree, Himmler lost no time in launching his program pursuant thereto. Himmler, as Reich Leader SS, and under the above decree, as Reich Commissioner for the Strengthening of Germanism, established the Office of the Reich Commissioner and began the selection of his staff. He appointed Greifelt as chief, Creutz as deputy chief, and Meyer-Hetling as head of the Planning Office.

Himmler fully realized the enormity of the task which confronted the Office of the Reich Commissioner for the Strengthening of Germanism. Millions of people had to be evacuated; millions had to be deported; and other millions had to be exterminated. Whole nations had to be destroyed; entire countries had to be converted into a part of the German Reich. The first order issued by Himmler shows that he realized all this and he realized, too, that it would be necessary to utilize the resources of existing SS and governmental agencies in order to complete the task successfully; for, in this order he called upon all the departments of the German Government and asked for their cooperation and help. He specifically mentioned VoMi, RuSHA, the Gestapo, the Reich Ministry for Food and Agriculture, the Reich Labor Ministry, and the German Labor Front, as agencies which were to be used. So, not only was he to use the many other organizations directly under him as Reich Leader of the SS, but it would be necessary to use other agencies as well. Of course he used his concentration camps. He used the Einsatzgruppen as the firing squads in the extermination of millions of civilians—Jews, Poles, and Russians. He used VoMi, RuSHA, Lebensborn, Ahnenerbe, and others of his offices. But, it was the Staff Main Office that was to be the directing head of the entire program. The Staff Main Office was to coordinate all activities. It was the center around which all these other offices revolved. Himmler makes this quite clear in his first order, and we quote:

"For the direction and promulgation of general orders and directives and for the execution of certain tasks which can only be dealt with *centrally*, I established the Office of the Reich Commissioner. I have placed SS Senior Colonel Greifelt in charge * * *.

"To carry out these tasks I ask all high offices of Party and

State for their cooperation and strongest assistance * * *. I shall * * * for the execution of my duties make use of the existing offices of the Reich, Laender, and towns, as well as of the other public organizations.

"I wish to mention particularly some of these tasks, as well as the institutions and agencies which are charged with the *solution* and *execution* of these tasks:

"a. VoMi and Foreign Organization [Auslandsorganisation] bring in the Germans and ethnic Germans.

"b. Reich Health Leader and RuSHA examine all Germans from the Reich and abroad in the new areas in town and country.

"c. The Security Police in cooperation with the Chief of the Civil Administration establishes and takes care of foreign elements dangerous to the German Folkdom.

"d. The settlement of farmers will be carried out by the Reich Minister of Food and Agriculture.

"e. Municipal building of apartment houses and suburban settlements will be handled by the Reich Labor Minister and the German Labor Front." [Emphasis supplied.] (NO-3078, Pros. Ex. 21.)

The decree is entirely clear and admits of no argument; the Staff Main Office was created to deal "centrally" with all the many phases of the program for the Strengthening of Germanism and all these agencies were to be coordinated and directed by the Staff Main Office. A good example of the fact that the Staff Main Office was the directing head is shown by the manner in which the entire program was financed. The Finance Administration of the Staff Main Office, under defendant Schwarzenberger, handled finances for VoMi, RuSHA, Lebensborn, DUT, DAG, EWZ, UWZ, Higher SS and Police Leaders and Gauleiter, and governors of provinces, as representatives of the RKFDV, the Reich Medical Chamber, Ahnenerbe, and others.

There has been much discussion during this trial to the effect that this was a very complicated case and the defendants have certainly tried to make it appear so, but to our minds the set-up of these organizations and their inter-relation were as simple as could possibly be found in any governmental undertaking of such vast proportions. Naturally, there was some overlapping of "competencies," but Hitler's original decree, and the decree of Himmler which soon followed, to our minds make perfectly clear the objectives which were sought and the means by which these objectives were to be gained.

Generally speaking, VoMi was to deal in deportations, forced evacuations, kidnaping, and slave labor; RuSHA was to conduct

racial examinations, decide who went to concentration camps, who were to be sterilized, on whom abortions were to be performed, which children were to be kidnaped and which were to be exterminated; the Security Police and SD, including the Higher SS and Police Leaders, were to "take care" of foreign elements dangerous to the German Folkdom, or, in plainer language, to exterminate the Jews and undesirable Poles and Russians; Lebensborn was to handle the abduction of children and their Germanization; and over all of these, and other agencies, was the Staff Main Office—the office that planned, directed, and coordinated the whole gigantic effort.

Proof of the fact that the Office of the Reich Commissioner (later the Staff Main Office) was aware of its power, and used it, may be found in a speech delivered by the defendant Meyer-Hetling at Poznan on 23 October 1941, when he said:

"* * * Since the Fuehrer assigned the task of the Strengthening of Germanism, and with it the related development of new settlement areas, to the Reich Leader SS as Reich Commissioner for the Strengthening of Germanism, a guarantee is given that planning and development of the total east German area will be attained with the necessary political penetrating force and a united will. Pursuant to the Fuehrer decree of 7 October 1939 all supreme Reich authorities are subject to instructions by the Reich Commissioner * * *.

"The Reich Leader SS as Reich Commissioner, by virtue of the Fuehrer's decree, is responsible for the planning for the new settlement area. On the express wish of the Fuehrer the formation and *new order for the German East shall be guided by the law of the Strengthening of Germanism*. Therefore all *specialized plans are to be subordinate to this law * * **" [Emphasis supplied.] (NO-3348, Pros. Ex. 88.)

The foregoing shows how each organization and consequently each defendant fits into the general picture. We will now briefly discuss what has been shown with reference to the commission of the particular crimes charged in the indictment. We call the Tribunal's attention to the fact that it would be impossible for us, in the appropriate time available for this closing statement, to discuss in detail the mass of evidence which has been introduced, insofar as it relates to each particular crime and each particular defendant. Here we will confine ourselves to a brief general discussion to show that all of the charges in the indictment have been sustained by the evidence, and we respectfully refer the Tribunal to the briefs which have been filed in this case for a more complete and detailed discussion of the evidence,

as it relates to each of the crimes charged and to each of the defendants.

* * * * *
MR. LAMB: We now come to count three of the indictment.

COUNT THREE, MEMBERSHIP IN THE SS

Under count three of the indictment all of the defendants except Viermetz are charged with membership in the SS, an organization declared criminal by the International Military Tribunal. "Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal" is recognized as a crime by Article II (d) of Control Council Law No. 10.

The International Military Tribunal held the following with respect to the SS:

"The Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS, as enumerated in the preceding paragraph, who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes excluding, however, those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes. The basis of this finding is the participation of the organization in war crimes and crimes against humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to belong to the organizations enumerated in the preceding paragraph prior to 1 September 1939." *

Specifically included in this declaration of criminality were all members of the Allgemeine and Waffen SS. According to their own testimony, all of the defendants charged under this count were voluntary and officially accepted members of the SS and they remained members after the first of September 1939. There were vague and unconvincing insinuations by several of the defendants that they had been drafted into the positions which they held with the RKFDV. Even if this were true it would not excuse them for being members of the General or Allgemeine SS which was always entirely voluntary. Moreover, one who defends himself on the ground of having been drafted into the SS must show, according to the International Military Tribunal's holding, that it was done "by the State in such a way as to give them no choice

* Trial of the Major War Criminals, *op. cit. supra*, p. 278.

in the matter, and who committed no such crimes.”¹ None of these defendants has even purported to set up this affirmative defense, nor has any one of them rebutted the overwhelming proof of personal complicity in SS crimes.

Thus, the only question that presents itself under count three is whether the defendants remained members of the SS with knowledge that it was being used for the commission of war crimes and crimes against humanity, or whether they were personally implicated as members of the organization in the commission of such crimes. The evidence in this case shows that they not only had knowledge that the SS was used for the commission of criminal acts, but also that they personally participated in their commission.

These defendants were active, full-time, professional SS men; it was their creed and career. Not only that, but as the principal leaders of the Staff Main Office, RuSHA and VoMi they were members of three of the most important Main Offices of the Supreme Command [Reichsfuehrung] of the SS, and as leaders of Lebensborn they were members of an important department in a Main Office, first RuSHA and later the Personal Staff of Himmler himself. The twelve Main Offices of the Supreme Command of the SS directed the activities of all the members of the SS, much as the supreme command of an army directs its operations. The International Military Tribunal, in calling the Supreme Command of the SS the SS Central Organization, stated that it “supervised the activities of these various formations (that is, the Allgemeine SS, Waffen SS, and police units) and was responsible for such special projects as the human experiments and ‘final solution’ of the Jewish question.”² We have already pointed out that the defendant Hofmann as Chief of RuSHA and Dr. Stier, representative of the defendant Greifelt, and incidentally a witness in his behalf (in this very courtroom), attended the meeting with Heydrich where the plans for the mass murder of Jews were laid.

The defendants who were members of the Staff Main Office and VoMi, in an effort to beguile and confuse this Tribunal, have had the temerity to swear that these were not Main Offices of the Supreme Command of the SS. While this in no way constitutes a defense to count three, since these self-same defendants admit they were members of the SS, and since the declaration of criminality by the International Military Tribunal is by no means limited to members of the Supreme Command, nevertheless, it is important to brand this statement as untrue. Prior to

¹ Ibid.

² Ibid., pp. 271-272.

11 June 1941, the Staff Main Office and VoMi—although very much part of the Supreme Command of the SS—had not been raised to the exalted positions of Main Offices, or in German, *Hauptaemter*. But, on that date, Hitler issued a decree in which he stated that:

“The two Main Offices (that is, the Staff Main Office and VoMi) are, as far as the SS is concerned, on an equal level with the offices of the Supreme Command of the SS [SS *Reichsfuehrung*].” (*NO-4057, Pros. Ex. 70.*)

In his decree of 28 November 1941, Himmler refers to VoMi, RuSHA, RSHA, and the Staff Main Office as “four Main Offices of the SS.” (*NO-4237, Pros. Ex. 24.*) Precisely the same information is to be found in the organizational year book of the Nazi Party where the Staff Main Office, RuSHA, and VoMi are all designated as Main Offices of the SS, while *Lebensborn* is mentioned as a department of the Personal Staff of Himmler. (*2640-PS, Pros. Ex. 875.*) These offices were all manned by high ranking SS officers and were carrying out SS tasks.

These defendants seek to support their statements on this point by allusions to the obvious fact that the activities of the Staff Main Office and VoMi were supported by State funds. If this were any criterion as between a Reich and an SS office, then there was no SS. By the beginning of the war, the SS had spread its tentacles into every branch of the Reich government. For example, the whole German police system was for all practical purposes absorbed by the SS, and directed first by Heydrich and then by Kaltenbrunner¹ as chief of the RSHA, a Main Office of the Supreme Command of the SS, if there ever was one.

Whatever these defendants may say and however much they attempt to confuse the issue, the fact is incontrovertible that the Staff Main Office and VoMi were as much Main Offices of the Supreme Command of the SS as the RSHA, RuSHA, or WVHA.

That each and every defendant well knew of the multitudinous criminal activities of the SS is proved beyond any shadow of a doubt by the evidence in this case. The International Military Tribunal found that knowledge of these activities was “general” among SS members and that “it is impossible to single out any one portion of the SS which was not involved in these criminal activities.”² If there were no proof in this case save the testimony of the defendants themselves, a conviction under count three would be mandatory. Their disgusting efforts to shift exclusive responsibility for their own crimes to the RSHA, the dead Himmler, or

¹ Defendant before International Military Tribunal. See *Trial of the Major War Criminals*, vols. I-XLII, Nuremberg, 1947.

² *Trial of the Major War Criminals*, vol. I, *op. cit. supra*, p. 271.

some other convenient scapegoat is proof itself that they knew the crimes were committed by the SS. They were all high ranking officers with very responsible positions.

But these defendants not only had guilty knowledge; they were active and important executioners of SS crimes. As we have already pointed out, the International Military Tribunal singled out RuSHA and VoMi as having been ultra-criminal Main Offices of the SS by holding that they "were active in carrying out schemes for Germanization of occupied territories according to the racial principles of the Nazi Party and were involved in the deportation of Jews and other foreign nationals." * Our proof has demonstrated conclusively that the Staff Main Office was Himmler's supervising agency for the whole criminal program. The Lebensborn defendants were without any question engaged in the atrocious business of kidnaping and making good Nazis out of children from the occupied countries. These are established facts and conclusive proof of the guilt of all these defendants under count three of the indictment.

*THE CHARACTER OF PROSECUTION EVIDENCE,
DOCUMENTARY AND ORAL*

The guilt of the defendants in this case has been proved by evidence of the highest known character. The prosecution has relied almost entirely upon documentary evidence, the authenticity of which has only in the rarest of occasions been questioned by the defendants. In most instances the defendants have taken up the prosecution exhibits, document by document, discussed them in detail and admitted their genuineness. They have given various and sundry unconvincing excuses as to why these documents did not incriminate them, but it was seldom, if ever, claimed that a document was not authentic.

More than enough documentary proof has been made a part of the record in this case to put beyond all doubt the criminal activities of these defendants and the offices which they led. Yet characteristically the defendants have from time to time complained that, dark as the picture is, a few documents which have not been found would dissipate this gloom of crime as if by magic, and the pure light of sunshine would bathe the courtroom and show the defendants in all their pristine purity. This veiled insinuation that all has not been said on their behalf which could have been said is a palpable absurdity. The proof by documents of these defendants' own making cannot be explained away. The guilt is there for all to see and the guilt of these defendants is written in clear and unambiguous language. It does not depend

* *Ibid.*, 270.

upon inference however compelling, but rests upon the letters and memoranda written by themselves. If they complain that other documents are not produced, we decline the blame. True it is that other documents once existed, which if now available, would perhaps give an even more detailed picture of the criminal program of these defendants. Be this as it may, it was the defendant Creutz, not the prosecution, who burned the secret records of the Staff Main Office a short time before the Americans entered Schweicklberg, at that time the headquarters of the Staff Main Office. We hardly think the defendants are in a position to complain if they find a few of their documents missing.

Fortunately, for the cause of truth, the Americans captured a few files that escaped Creutz's torch at Schweicklberg. Additionally, some of Himmler's files were captured, some files of VoMi, Lebensborn, RuSHA and the WVHA. From these available sources our proof has come. In this way many first copies or originals have been found, but naturally in some instances only a file copy of a document has been found. For instance, we have to rely on the copy of a secret order which Himmler sent to the Staff Main Office because Himmler's files were captured, but the files of the Staff Main Office, where the original should have been, were destroyed in the bonfire set by Creutz. The same could apply to other situations, for often the files of the sender were captured and not those of the recipient. The defendants have seen fit to complain about these so-called copies as if they are somehow not very compelling proof. This is quite a mistaken notion. These "copies" were retained in the file of the writer. They are authentic captured German documents and by reason of the fact that they complete the picture given by the other contents of the captured file, have high probative value. Moreover, Article VII of Ordinance No. 7 provides that "copies of any document, or other secondary evidence of any document, shall be deemed admissible if the original is not readily available and cannot be produced without delay." The prosecution contends that these so-called copies are entitled to the highest probative value in view of the overall proof offered in this case. There are none of these copies which do not fit in by reference, or otherwise, with signed original documents which have been introduced. Like a jig-saw puzzle, the many separate pieces of evidence fit together to form an irrefutable case.

Most of the prosecution's exhibits are orders, letters, decrees, reports, directives, and the like. Many of them are signed by the defendants themselves. This is the type of evidence which we have mainly relied on and which we think proves the guilt of all the defendants beyond every reasonable doubt. The few affi-

davits which we have introduced, including those of the defendants, merely clarify and corroborate what is contained in the other documents.

Several of the defendants found fault with their pretrial interrogations. But, for the most part, these self-same defendants asserted on the stand that the content of the affidavits they signed was true and correct. Schwalm, under questioning by the Tribunal, stated that his affidavit was “* * * in substance * * * correct”. (*Tr. pp. 3427-8.*) Huebner never contended the affidavit signed by him did not state the truth. Sollmann took issue with such important matters as whether the English translation of a word in his affidavit would read “commissary” or “grocery store”. Hofmann stated in his affidavit that it was one of his responsibilities to forward verdicts against Eastern workers who had forbidden sexual relations with Germans to the Reich Governor of Wuerttemberg, and that he recalled fifteen to twenty-five cases where such persons were hanged. On the stand, Hofmann demurred to the figure fifteen to twenty-five and said that “actually, there were probably three to five cases only.” (*Tr. p. 3221.*) Whatever the truth of this “correction”, the prosecution is still inclined to view the crime as a serious one.

None of the affidavits which the defendants signed told any more than had already been told by the other documentary evidence which was submitted. The only thing these affidavits did was to give a concise statement concerning certain activities of the defendants. For this reason we considered that the affidavits would be helpful to the Tribunal, but they said nothing that had not already been expressed in the other documents and by other witnesses, and even by the defendants' own testimony.

In addition to the documentary evidence, the prosecution has introduced a number of witnesses who gave oral testimony. These witnesses, generally speaking, were divided into two classes. First, there were those who had no connection with any of the offices involved in this case, no connection with any of the defendants, and who, for the most part, were citizens of foreign countries who had witnessed or had first-hand knowledge of the commission of some of these crimes, and who obviously had no interest in this case other than to see that justice was done. The second class of witnesses that were presented by the prosecution consisted of a number of Germans, most of whom were members of the SS and had previously been connected in some way with one of the offices involved here, and who had known most of the defendants personally. These witnesses were introduced for the purpose of making more easily understood the documents which described the general organization of these offices, their functions, and au-

thority, and we think that their testimony served the purpose for which it was intended. It was not expected, nor did we ask, that these witnesses, who were generally hostile to the prosecution, should implicate the defendants personally in the various crimes with which they are charged.

GENERAL CHARACTER OF DEFENSE

As we have said, the case against these defendants has been proved by captured documents, many of them written by the defendants themselves. Upon this evidence alone every defendant stands condemned. They have admitted that these are genuine and authentic documents.

Most of these documents were written in plain, simple and direct language. Most of them are orders or directives or reports. They are concise, clear, and complete. There is little room for misunderstanding in any of them and, again we quote the Tribunal, "the documents speak for themselves." Nevertheless, the defendants, realizing how incriminating these documents were, have tried in every conceivable way to brush them aside. The defendants all spent most of their time on the stand attempting to explain away document after document. Documents addressed to, or signed by them were not read; or if read were not understood; or if understood, were imperfectly understood. Official directives were never carried out or were secretly rescinded. Official duties assigned were never performed. Official reports contained in their files were full of factual mistakes. No one ever heard of or read any speeches by Himmler. Reports of conferences, which listed the defendants as having taken part, were in error. They were somewhere else that day.

Of all of these defendants who attended the Monday conferences of the Staff Main Office, where the entire work of the Staff Main Office and other agencies connected with the Strengthening of Germanism was discussed, none knew what was discussed at these meetings. None of them ever gained an insight into the work of the Staff Main Office, and none of them knew what their own offices were doing, much less any of the other offices connected with the Staff Main Office.

The defendants always blamed someone else who had a higher position than they, such as Himmler, or some irresponsible subordinate. They would have us believe that Himmler personally attended to everything connected not only with SS offices involved here but all of the twelve Main SS Offices over which he had control. They have all testified that they did not approve of Hitler or Himmler and that they did not approve of the objectives of the agencies here involved. But none resigned because of this.

Inasmuch as these defendants have denied absolutely all connection with the crimes here charged and have said that these documents which we have introduced do not mean what they say, we think a question of credibility is a principal issue before the Tribunal. We submit that it is incredible that all of the many incriminating documents which have been submitted by the prosecution are mistaken in what they say. This question of credibility is clear cut. Either the documents are all entirely wrong or these defendants are guilty. In their testimony the defendants took no half-way measures. They looked at incriminating document after incriminating document squarely in the face and simply said these documents didn't mean what they said. They called black white without the slightest hesitation. They read their lines without faltering. It was only on cross-examination that they would sometimes admit that an "unfortunate term" had been used.

These defendants always blamed someone else, yet they were careful never to implicate any of their co-defendants. The obvious reason for this stems from the fact that all of these defendants were engaged in a common cause and each knows of all the work done by the other. So if one defendant had given damaging evidence against another, the jig would have been up because the defendant who was thus incriminated would retaliate by incriminating his accuser. When they inadvertently told an incriminating truth about a co-defendant and were reminded of this fact by the latter's attorney, they always very obligingly said that they had used an "unfortunate expression" and did not mean what they had said. They always blamed someone who is dead or whose whereabouts is unknown, and remained loyal to their fellow brothers in the SS.

Most of the documents introduced by the defendants are affidavits showing that they had a good character and that they loved Jews, or newspaper articles attempting to justify this criminal program of genocide. By these articles they tried to prove that the Versailles Treaty was unjust and illegal, and tried to show that because these crimes or crimes similar to these were committed by other nations in the past, they were perfectly justified in doing the same thing but on a larger scale. In other words, they say that two wrongs would make a right. We have been unable to see the relevancy of this documentary evidence.

Most of the defendants' witnesses were former SS men and practically all of them were Nazis. A typical witness was General Karl Wolff (spelled with two f's) who was head of Himmler's Personal Staff. He testified that he knew most of the defendants personally, that they all were sterling characters, that none of them wanted to work for Himmler but were just victims of cir-

cumstances. He further testified that he did not know the SS was killing Jews. He maintained this even after he was shown a letter over his own signature, in which he said he was happy to hear that 5,000 of the chosen people were being sent daily to Treblinka, a notorious extermination camp near Lublin. He gave the same excuse that the defendants always put forward when confronted with a damaging document—he had used an “unfortunate expression”, and the only reason he signed the letter was because after he had dictated it and it had been typed, his secretary could not be found; otherwise he would have rewritten it, but being in a hurry he just signed the letter and sent it out.

A common defense in this case has been that what the defendant did was in accordance with German law at that time. Of course, the German laws after 1933 were nothing except the expression “Hitler’s will”. When, therefore, a defendant says that what he did cannot be a crime because it was authorized by the German law, he is in effect saying that what he did cannot be considered a crime because Hitler wanted it done. An example of this is testimony relative to Goering’s decree concerning the treatment of property of citizens of the former Polish State, in which he said, among other things, that there must be confiscation in the case of the property of Jews. Several of the defendants claimed that this was a law and had to be carried out. But this is obviously no defense; Tribunal III in Case No. 3, the Justice Case, gave a correct statement of the law when it said: *

“In German legal theory Hitler’s law was a shield to those who acted under it, but before a tribunal authorized to enforce international law, Hitler’s decrees were a protection neither to the Fuehrer himself nor to his subordinates if in violation of the law of the community of nations.”

Another defense of equal invalidity is that certain territories over-run by Germany, for example parts of Poland and Luxembourg and Alsace and Lorraine, were incorporated into the Reich and must be considered as a part of Germany. The burden of this argument is that since these territories were absorbed by the Reich, the laws and customs of war no longer applied and hence no war crimes could have been committed. This contention was disposed of by the International Military Tribunal in the following language:

“A further submission was made that Germany was no longer bound by the rules of land warfare in many of the territories occupied during the war, because Germany had completely subjugated those countries and incorporated them into the German

* Case of the United States vs. Josef Altstoetter, et al., vol. III, see judgment.

Reich, a fact which gave Germany authority to deal with the occupied countries as though they were part of Germany. In the view of the Tribunal it is unnecessary in this case to decide whether this doctrine of subjugation, dependent as it is upon military conquest, has any application where the subjugation is the result of the crime of aggressive war. The doctrine was never considered to be applicable so long as there was an army in the field attempting to restore the occupied countries to their true owners, and in this case, therefore, the doctrine could not apply to any territories occupied after 1 September 1939. As to the war crimes committed in Bohemia and Moravia, it is a sufficient answer that these territories were never added to the Reich, but a mere protectorate was established over them.”¹

Military Tribunal III made a similar finding in Case No. 3,² saying:

“We have expressed the opinion that the purported annexation of territory in the East which occurred in the course of war and while opposing armies were still in the field was invalid and that in point of law such territory never became a part of the Reich but merely remained in German military control under belligerent occupancy.”

Still another defense put forward in this case has been that the defendants were following superior orders. This defense is declared invalid by Control Council Law No. 10, which provides in Article II, 4(b)—

“The fact that any person acted pursuant to the order of his government or of his superior does not free him from responsibility for a crime, but may be considered in mitigation.”

The Charter of the International Military Tribunal contained an identical provision with respect to which it was said in the judgment—in almost the same language used in Control Council Law No. 2—as follows:

“The fact that the defendant acted pursuant to order of his government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment.”³

Many times during the course of the trial, the defendants testified that they treated their victims well. Even if we put to one side the Jews killed by the millions, the hundreds of thousands of the peoples of Poland, Slovakia, Luxembourg, Alsace and Lorraine who died by the thousands during deportation actions in the bitter cold of winter and as a result of being deprived of all

¹ Trial of the Major War Criminals, *op. cit. supra*, p. 254.

² Case of the United States *vs.* Josef Altstoetter, et al., vol. III, see judgment.

³ Trial of the Major War Criminals, *op. cit. supra*, p. 224.

means of support; even if we forget the citizens of Luxembourg and Poland who were shot because they refused to fight for Germany after being forcibly conferred with German citizenship, and the miserable Poles who were committed to a concentration camp or hanged for having had sexual intercourse with a German, or refusing to sign the DVL List—even if all this is forgotten—the contention of good treatment is no defense. The gravamen of the crime of kidnaping or slave labor is not maltreatment. The kidnaper or slaver will not be heard to defend on the ground that he did not commit an additional crime as well. It was not the purpose of taking small children from their parents, homes, friends, and guardians to mistreat them physically, but rather to Germanize them, make good Nazis of them. This did indeed cause mental pain and suffering to the parents or foster parents and to the child itself. And surely the German foster parents with whom these children were placed have been caused untold suffering in cases where the child has been repatriated since the end of the war. This is a tale of misery which will not end for years to come. But all of that was not the purpose of the program, although it was the inevitable result. Whether the child was mistreated is completely beside the point.

The same is true with respect to the young women forcibly brought to Germany to work as housemaids and the tens of thousands of other deportees compelled to work for the German war machine. We think it has been shown that these people were certainly not well treated but, even if we assume they were, it is no defense. As Tribunal II said it so well in Case 4, the Pohl Case *

“The freedom of man from enslavement by his fellow men is one of the fundamental concepts of civilization. Any program which violates that concept, whether prompted by a false feeling of superiority or arising from desperate economic needs is intolerable and criminal. We have been told many times, ‘Germany was engaged in total war. Our national life was endangered. Everyone had to work’. This cannot mean that everyone must work for Germany in her waging of criminal aggressive war. It certainly can not mean that Russian and Polish and Dutch and Norwegian non-combatants, including women and children, could be forced to work as slaves in the manufacture of war material to be used against their own countrymen and to destroy their own homelands. It certainly cannot mean, in spite of treaties and all rules of civilized warfare (if warfare can ever be said to be civilized) that prisoners taken in battle can be reduced to the status of slaves. Even Germany prior to 1939 had repudiated any such fallacious position.

* Case of the United States vs. Oswald Pohl, et al., see judgment.

And yet, under the hypnotism of the Nazi ideology, the German people readily became complaisant to this strange and inhuman system. Under the spell of National Socialism, these defendants today are only mildly conscious of any guilt in the kidnaping and enslavement of millions of civilians. The concept that slavery is criminal *per se* does not enter into their thinking. Their attitude may be summarized thus: 'We fed and clothed and housed those prisoners as best we could. If they were hungry or cold, so were the Germans. If they had to work long hours under trying conditions, so did the Germans. What is wrong in that?' When it is explained that the Germans were free men working in their own homeland for their own country, they fail to see any distinction."

Another contention of the defendants was that the so-called "ethnic Germans" were in fact Germans and subject to the jurisdiction of the German Government. This contention has no basis in law. The so-called ethnic or racial Germans in Poland, Luxembourg, Alsace and Lorraine were citizens of those countries and their allegiance was to them, not to the German Reich. The same is true of the Russians and all other foreign nationals. Even Himmler realized this, for when he examined the question whether a Pole could be prosecuted in a German court, he expressed the following opinion, as it is stated in the Justice Case *:

"He (Himmler) also states that as far as racial Germans are concerned, section 91, paragraph 2, of the German Penal Code 'is not directly applicable, as racial Germans, according to formal national law were not German, but Polish, citizens * * *'."

There were indeed many traitors, the Quislings and their obnoxious ilk, who acted as "Fifth Column" agents against their own countries. No doubt these wretched people welcomed German dominion and citizenship in the Third Reich. For them we hold no brief. But there were many loyal citizens whose only desire was to be left in peace, who were torn from their homes and forcibly subjected to the Germanization procedures imposed by these defendants. That they may have had a German grandparent is no defense to these palpable crimes. Nor should the Tribunal forget that there were thousands of people in Poland, Luxembourg, Alsace, Lorraine, and elsewhere who were subjected to the Germanization process—or, as the defendants called it, the WED procedure—solely on the ground of their "racial appearance." These people were no more German than Tam o'Shanter.

Another contention has been that certain of the incorporated territories were German territories prior to the Treaty of Ver-

* Case of the United States *vs.* Josef Altstoetter, et al., vol. III, see judgment.

sailles and that the Germans were therefore justified in treating this territory as German. This defense was rejected by the International Military Tribunal. Whatever one's views may be on the merits of the treaty, there can be no disagreement that it could not be validly abrogated by unilateral action of the German Government and least of all through aggressive war.

Finally, these defendants have encumbered the record with all manner of irrelevant evidence which they assert proves that other nations have done what they did. The "evidence" in no way supports their thesis, but even if it did the law has yet to recognize the defense that two wrongs make a right, that since someone else committed murders and atrocities the defendants should not be convicted of a like charge. If others have done what these defendants did, they too have committed crimes.

THE LAW APPLICABLE TO THIS CASE

The law of this case is contained in Control Council Law No. 10 and its terms are conclusive upon all parties to this proceeding. This Tribunal is, we respectfully submit, bound by the provisions of Control Council Law No. 10, just as the International Military Tribunal was bound by the provisions of the London Charter. It was stated in the International Military Tribunal judgment that:

"The jurisdiction of the Tribunal is defined in the Agreement and Charter, and the crimes coming within the jurisdiction of the Tribunal, for which there shall be individual responsibility, are set out in Article 6. The law of the Charter is decisive and binding upon the Tribunal." *

It will perhaps be helpful at this point for the prosecution to outline briefly its conception of the legal principles underlying war crimes and crimes against humanity as defined in Control Council Law No. 10. War crimes are defined in Control Council Law No. 10 as atrocities and offenses in violation of the laws and customs of war. This definition is based primarily on the Hague Convention of 1907 and the Geneva Convention of 1929 which declare the law of nations at those times with respect to land warfare, the treatment of prisoners of war, the rights and duties of a belligerent power when occupying territory of a hostile state, and other matters.

It has been contended by some here, as it was contended in the trial before the International Military Tribunal, that the Hague Convention does not apply in this case because several of the belligerents in the recent war were not parties to the Convention.

* Trial of the Major War Criminals, vol. I, *op. cit. supra*, pp. 218, 258.

In its judgment, the International Military Tribunal disposed of this contention in the following language:

“The Tribunal is of course bound by the Charter, in the definition which it gives both of war crimes and crimes against humanity. With respect to war crimes, however, as has already been pointed out, the crimes defined by Article 6, section (b), of the Charter were already recognized as war crimes under international law. They were covered by Articles 46, 50, 52, and 56 of the Hague Convention of 1907, and Articles 2, 3, 4, 46, and 51 of the Geneva Convention of 1929. That violation of these provisions constituted crimes for which the guilty individuals were punishable is too well-settled to admit of argument.

“But it is argued that the Hague Convention does not apply in this case, because of the ‘general participation’ clause in Article 2 of the Hague Convention of 1907. That clause provided—

‘The provisions contained in the regulations (Rules of Land Warfare) referred to in Article I, as well as in the present Convention, do not apply except between contracting powers, and then only if all the belligerents are parties to the Convention.’

Several of the belligerents in the recent war were not parties to this Convention.

“In the opinion of the Tribunal it is not necessary to decide this question. The rules of land warfare expressed in the Convention undoubtedly represented an advance over existing international law at the time of their adoption. But the Convention expressly stated that it was an attempt ‘to revise the general laws and customs of war’, which it thus recognized to be then existing, but by 1939 these rules laid down in the Convention were recognized by all civilized nations, and were regarded as being declaratory of the laws and customs of war which are referred to in article 6 (b) of the Charter.” *

The laws and customs of war apply between belligerents, but not domestically or among allies. Crimes of German nationals against other German nationals are not war crimes nor are acts by German nationals against their allies. But these crimes are comprehended within the definition of crimes against humanity as contained both in the London Charter of the International Military Tribunal and Control Council Law No. 10 for this proceeding. The definition of crimes against humanity as contained in Control Council Law No. 10 is—

* *Ibid.*, pp. 253-254.

“Atrocities and offenses, including but not limited to, murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial, or religious grounds, whether or not in violation of the domestic laws of the country where perpetrated.”

The definition of crimes against humanity is thus considerably broader than that of war crimes. Crimes against humanity include atrocities and offenses against *any* civilian population, while war crimes are limited to crimes committed against the civilian population from *occupied* territory. Thus, a war crime is necessarily at the same time a crime against humanity; the reverse of this proposition is of course not true, since crimes against humanity committed against Germans or allies of Germany are not at the same time war crimes. This analysis is recognized not only in Case No. 3, the Justice Case, but also in the judgment of the International Military Tribunal—as stated by Military Tribunal III in its judgment—

“Obviously, these sections are not surplusage. They supplement the preceding sections on war crimes and include within their prohibition not only war crimes, but also acts not included within the preceding definitions of war crimes. In place of atrocities committed against civilians of, or in, or from occupied territory, these sections prohibit atrocities ‘against any civilian population’. Article III of Control Council Law No. 10 clearly demonstrates that acts by Germans against German nationals may constitute crimes against humanity within the jurisdiction of this Tribunal to punish.

“Control Council Law No. 10 is not limited to the punishment of persons guilty of violating the laws and customs of war in the narrow sense; furthermore, it can no longer be said that violations of the laws and customs of war are the only offenses recognized by common international law. The force of circumstances, the grim fact of world-wide interdependence, and the moral pressure of public opinion have resulted in international recognition that certain crimes against humanity committed by Nazi authority against German nationals constitute violations not alone of statute but also of common international law.” *

The judgment of the International Military Tribunal also shows a clear recognition of its jurisdiction over crimes of Germans against Germans as comprehended within the definition of crimes against humanity. After reviewing a large number of inhuman

* Case of the United States vs. Josef Altstoetter, et al., vol. III, see judgment.

acts in connection with war crimes and crimes against humanity, the Tribunal concluded by saying that:

“* * * from the beginning of the war in 1939 war crimes were committed on a vast scale, which were also crimes against humanity; and insofar as the inhumane acts charged in the indictment, and committed after the beginning of the war, did not constitute war crimes, they were all committed in execution of, or in connection with, the aggressive war, and therefore constituted crimes against humanity.”¹

What we have said with respect to the broad scope of the definition of crimes against humanity has primary significance with respect to paragraph 22 of count one of the indictment. It charges the defendant Hildebrandt with the extermination of thousands of German nationals pursuant to the so-called euthanasia program of the Third Reich. All other acts charged as crimes against humanity in the indictment were also directed against civilians from occupied countries, and consequently are also charged as, and constitute war crimes. The evidence does not reveal, however, whether the persons executed by the SS unit commanded by Hildebrandt when he was Higher SS and Police Leader in Danzig, West Prussia, were all German nationals, or whether some Polish nationals also fell victim to this action. Accordingly, these murders were charged in the indictment only as crimes against humanity. According to the definition of crimes against humanity, as contained in Control Council Law No. 10, this Tribunal clearly has jurisdiction over this crime even though it may have been committed only against German nationals. This very matter has been authoritatively determined by the judgment of the International Military Tribunal when it said:

“Reference should also be made to the policy which was in existence in Germany by the summer of 1940, under which all aged, insane, and incurable people, ‘useless eaters’, were transferred to special institutions where they were killed, and their relatives informed that they had died from natural causes. The victims were not confined to German citizens, but included foreign laborers, who were no longer able to work and were therefore useless to the German war machine. It has been estimated that at least some 275,000 people were killed in this manner in nursing homes, hospitals, and asylums which were under the jurisdiction of the defendant Frick, in his capacity as Minister of the Interior. How many foreign workers were included in this total it has been quite impossible to determine.”²

¹ Trial of the Major War Criminals, *op. cit. supra*, pp. 254-255.

² *Ibid.*, p. 247.

"During the war nursing homes, hospitals, and asylums in which euthanasia was practised as described elsewhere in this judgment, came under Frick's jurisdiction. He had knowledge that insane, sick, and aged people, 'useless eaters', were being systematically put to death. Complaints of these murders reached him, but he did nothing to stop them. A report of the Czechoslovak War Crimes Commission estimated that 275,000 mentally deficient and aged people, for whose welfare he was responsible, fell victim to it." *

Thus, the International Military Tribunal held that the crime of euthanasia, as widely practiced by the Third Reich was a crime within its jurisdiction and no distinction was drawn as to the nationality of the persons who fell victims to it. A similar result was reached by Military Tribunal I, in Case No. 1, the so-called Medical Case.

We will now cite a few precedents to show that the very things which these defendants are charged with have been declared to be crimes.

As to the criminality of the acts charged in the indictment, no novel questions face the Tribunal. That these acts did occur and that they constitute crimes has been authoritatively adjudicated by the International Military Tribunal and by other tribunals which have rendered judgments here at Nuernberg. Article IX of Military Government Ordinance No. 7 provides that tribunals shall take judicial knowledge of the records and findings of other tribunals of any of the United Nations. Article X provides a determination of the International Military Tribunal in the judgment in Case No. 1, that certain crimes were planned or occurred, shall be binding on the tribunals established under Ordinance No. 7, and statements of the International Military Tribunal in its judgment shall constitute proof of acts stated in the absence of substantial new evidence to the contrary.

We will quote a few excerpts from the judgment in Case No. 1 which are proof of the fact that not only were these crimes planned but they were actually committed in accordance with the preconceived plan.

The International Military Tribunal has held that criminal acts of expulsion were committed in order to make room for German colonization, and the Tribunal stated:

"* * * In Poland and the Soviet Union these crimes were part of a plan to get rid of whole native populations by expulsion and annihilation, in order that their territory could be used for colonization by Germans. Hitler had written in *Mein*

* *Ibid.*, p. 301.

Kampf on these lines, and the plan was clearly stated by Himmler in 1942, when he wrote: 'It is not our task to Germanize the East in the old sense, that is to teach the people there the German language and the German law, but to see to it that only people of purely Germanic blood live in the East.'¹

The same Tribunal, referring to the abduction of children of a conquered nation, said:

"It was Himmler again who stated in October 1943:

"* * * What the nations can offer in the way of good blood of our type, we will take. If necessary, by kidnapping their children and raising them here with us. Whether nations live in prosperity or starve to death interests me only insofar as we need them as slaves for our Kultur, otherwise it is of no interest to me."²

The Tribunal again adjudged that expulsions and deportations actually occurred:

"In the West the population of Alsace were the victims of a German 'expulsion action'. Between July and December 1940, 105,000 Alsatians were either deported from their homes or prevented from returning to them. A captured German report, dated 7 August 1942, with regard to Alsace states that:

"The problem of race will be given first consideration, and this in such a manner that persons of racial value will be deported to Germany proper, and racially inferior persons to France."³

The International Military Tribunal also determined that plunder has been committed in connection with the program for the Strengthening of Germanism. Again we quote:

"* * * Himmler, as the Reich Commissioner for the 'Strengthening of Germanism', issued a decree * * * for carrying out the art seizure program * * * it is stated: 'To strengthen Germanism in the defense of the Reich, all articles mentioned in section 2 of this decree are hereby confiscated * * *.'

They are confiscated for the benefit of the German Reich, and are at the disposal of the Reich Commissioner for the strengthening of Germanism".⁴

The International Military Tribunal referred to RuSHA and VoMi as criminal components of the SS Supreme Command, holding that they—

"* * * were active in carrying out schemes for Germaniza-

¹ Ibid., p. 287.

² Ibid.

³ Ibid., p. 288.

⁴ Ibid., p. 242.

tion of occupied territories according to the racial principles of the Nazi Party and were involved in the deportation of Jews and other foreign nationals.”¹

In condemning the Leadership Corps of the Nazi Party, the Tribunal said:

“But the Leadership Corps was also used for similar steps in Austria and those parts of Czechoslovakia, Lithuania, Poland, France, Belgium, Luxembourg, and Yugoslavia * * * the Leadership Corps was used for their *Germanization* through *elimination of local customs* * * *.”² [Emphasis supplied.]

In its judgment against Hess, the Tribunal said:

“* * * he signed decrees forcing certain groups of Poles to accept German citizenship. The Tribunal however, does not find that the evidence sufficiently connects Hess with *those crimes* to sustain a finding of guilt.”³ [Emphasis supplied.]

So, although the Tribunal did not pin the guilt for these particular crimes on Hess, it did adjudicate the fact that the forcing of persons to accept German citizenship was a crime.

In citing the crimes committed by the defendant Rosenberg, the Tribunal held that:

“He helped to formulate the policies of Germanization * * *, and he set up the administration which carried them out.”⁴

And finally, the Tribunal in its judgment against the defendant Frick said:

“Having created a racial register of persons of German extraction, Frick conferred German citizenship on certain groups of citizens of foreign countries. He is responsible for Germanization in Austria, Sudetenland, Memel, Danzig, Eastern territories (West Prussia and Posen), and Eupen, Malmedy, and Moresnot. He forced on the citizens of these territories German law, German courts, German education, German police security, and compulsory military service.”⁵

CONCLUSION

In conclusion we respectfully submit that it has been shown that during the course of the late war many heinous crimes were committed by the Nazi regime against the civilian population of neighboring countries. It has been shown that these crimes were committed for the purpose of making Germany strong by making her neighbors weak. It has been shown that with the

¹ Ibid., p. 270.

² Ibid., pp. 258-259.

³ Ibid., p. 284.

⁴ Ibid., p. 295.

⁵ Ibid., p. 301.

cessation of Polish armed resistance in October 1939, Hitler and Himmler took steps to destroy the Polish nation and large groups of its peoples. It has been shown that a special office was set up to carry out this gigantic task; that the office was known as the Office of the Reich Commissioner for the Strengthening of Germanism (later known as the Staff Main Office); and that the Nazi Party and SS agencies, RuSHA, VoMi, and Lebensborn, were detailed to assist in the execution of the program. It has been shown that these four offices, working in perfect harmony, in collaboration one with the other, and under the overall supervision of the Staff Main Office were responsible for the many criminal acts which were perpetrated in connection with the program. It has been shown that all of the defendants, as important and high ranking officials of these four offices, worked together to effectuate this criminal common plan. These defendants conferred together, discussed together, planned together, and worked together. Each was an expert in his own field. They comprised a team and each member was vital to the success of the whole enormous operation. Their tasks were so interwoven and so interrelated that without complete knowledge of the entire program, and without full collaboration on the part of all, they would not have been able to accomplish what they did in carrying out this criminal program. So we repeat, these defendants constitute a team, they all were involved in one scheme. They are all responsible for the criminal acts which they committed in carrying out the program.

Control Council Law No. 10, Article II, 2 provides that without regard to the capacity in which he acted any person is deemed to have committed a crime as defined in Control Council Law No. 10 if he was—

- (a) a principal, or
- (b) was an accessory to the commission of any such crime or ordered or abetted the same, or
- (c) took a consenting part therein, or
- (d) was connected with plans or enterprises involving its commission, or
- (e) was a member of any organization or group connected with the commission of any such crime.

We submit that the proof in this case shows beyond a reasonable doubt that all the defendants have participated in the crimes charged in the indictment in such a way as to bring them within the provisions above quoted, and that they therefore are guilty of having committed the crimes charged.

VII. SPECIAL CIRCUMSTANCES ARISING OUT OF THE EARLIER EXTRADITION OF THE DEFENDANT HILDEBRANDT TO POLAND

A. Extract from the Closing Statement for Defendant Hildebrandt *

Mr. President, your Honors. Just before the conclusion of the case in chief, the prosecution in the session 2 February 1948 (*Tr. p. 4749*) made the following statement, I quote:

“We wish to have it clearly set forth in the record that for the period from 1 September 1939 until April 1943 the only charge against the defendant Hildebrandt is the euthanasia charge contained in paragraph 22 of the indictment. We make no other charges against him for that period when he was Higher SS and Police Leader and representative of the RKFDV in Danzig-West Prussia.”

This statement *per se* could be a source of gratification in the defense of the defendant Hildebrandt. However, the defense of Hildebrandt could be accused of acting irresponsibly if it limited its argumentation accordingly to the activity of Hildebrandt as chief of the Race and Settlement Main Office.

The defendant Hildebrandt has not forgotten that on 4 September 1946 he was taken from the hospital of the internment camp at Regensburg by a Polish officer, and transferred to Poland with a transport of 60-70 men.

The defendant Hildebrandt is familiar with the physical ill-treatment and humiliation to which he and his fellow prisoners—farmers, officers, and clergymen—were subjected in the Polish prisons in Warsaw.

The defendant Hildebrandt knows what it means to have to wait for three-quarters of a year for a trial, completely uncertain as to his fate.

The Polish law administration had nine months in which to put Hildebrandt before the forum of a Polish court. In article V of the Control Council Law of 20 December 1945, of the “writ of habeas corpus” of German war criminals, promulgated and signed by the four signatory powers, it states, and I quote:

“If within six months the extradited person has not been convicted by the court of the zone or country to which he has been delivered, then such person shall be returned upon demand

* Complete closing statement is recorded in mimeographed transcript, 18 February 1948, pp. 5113-5138.

of the commander of the zone where the person was located prior to extradition.”

The fixed time elapsed without the Polish Government having made any efforts whatsoever to utilize this time to initiate and carry out proceedings against Hildebrandt.

In July 1947, Hildebrandt was sent back to the U.S. Zone in a completely debilitated condition. A few weeks later he received the indictment for this trial.

Hildebrandt, father of three young children and living in happy marriage, did not only command the highest esteem in the ranks of the SS, as has been confirmed concordantly by many witnesses, but in his activity as Higher SS and Police Leader in Danzig-West Prussia he also won for himself the trust and respect of wide circles of the Polish population. (*Hildebrandt 101, Hildebrandt Ex. 31; Hildebrandt 106, Hildebrandt Ex. 36; Hildebrandt 120, Hildebrandt Ex. 50.*) He had an open ear and tender heart for the needs and troubles of his fellow human beings. (*Hildebrandt 99, Hildebrandt Ex. 25; Hildebrandt 105, Hildebrandt Ex. 35; Hildebrandt 121, Hildebrandt Ex. 51; Hildebrandt 126, Hildebrandt Ex. 56.*) There is no blood upon his hands. It cannot be a matter of indifference to him, a man whose irreproachable and hypersensitive character (*Hildebrandt 93, Hildebrandt Ex. 19; Hildebrandt 96, Hildebrandt Ex. 22; Hildebrandt 98, Hildebrandt Ex. 24; Hildebrandt 103-106, Hildebrandt Exs. 33-36; Hildebrandt 123, Hildebrandt Ex. 53*) has been described with the moving words of women as well as with the honest conviction of men who were his colleagues and subordinates, whether henceforth his good name in the life of his children shall be burdened with the stigma of an inhuman war criminal.

His self-respect, the consideration for his and his family's reputation (*Hildebrandt 102, Hildebrandt Ex. 32; Hildebrandt 105, Hildebrandt Ex. 35*) demands justification before a tribunal to the judges of which he has entrusted in full confidence the decision over his fate, and therewith his honor. This is, and I need not give particular emphasis to this fact, the case here before the American Tribunal. Even today Hildebrandt does not hold any feelings of malice towards the Polish people and its citizens. But after his experiences of 1946-47 he cannot accord the same trust to a court in Poland, which following the political developments of recent weeks and months has today become a satellite state of Moscow, and tomorrow will perhaps represent one of the strongest powers of the Union of the Socialist Soviet Republics.

The words of the Roman poet Horace, "*Vestigia terrent*", from Aesop's Fable of the fox and the lion, makes Hildebrandt wonder whether behind a statement, submitted with the mask of apparent

loyalty, which promises to release him from grave accusations, there is perhaps concealed another motive which would deprive him of the judgment of this Court.

Realizing the possibilities which could arise from this statement, it has become necessary for the defense of Hildebrandt to discuss the question as to what significance is attached to that statement from the standpoint of criminal law, and what consequences would ensue for the proceedings.

The right of a defendant to defense constitutes an integral part of the irrefutable principles of the regular criminal proceedings of every civilized nation. This right is to enable him to refute the charges brought against him and clear himself of these charges. This principle applies to petty as well as to severe criminal cases. It should be given all the more consideration when, on the basis of international laws, charges of war crimes and crimes against humanity are raised before an international tribunal.

The knowledge of the charge publicly raised against him constitutes the prerequisite for a proper defense compatible with the self-respect of the person accused. Therefore, Ordinance No. 7, Article III imposes upon the chief prosecutor before the Military Tribunals the obligation to go through with the charge published and to submit to the defendant a copy of the indictment prior to the trial. Thereby, the indictment has become the very basis of every trial before the Military Tribunals. Its submission to the Secretary General's Office signifies that the decision of these Courts has been requested for the judgment and punishment of the defendant for a specific criminal act.

According to Article IV of Ordinance No. 7, this criminal act is to be described in the indictment in sufficient detail to inform the defendant of the nature of the criminal act of which he has been accused. According to Article VI of Ordinance No. 7, the scope of the case is to cover these indictment counts. Within the framework of and according to this indictment, the high judgeship of the Military Tribunal is entrusted with the public charge by the prosecution and a decision thereon requested.

Once this appeal to the Tribunal has been made it does not seem admissible to allow the development of the case, and in particular, the extent, subject, or interpretation of the counts contained in the indictment to rest upon the exclusive discretion of the prosecution to make some restricting or elaborating statements. This is evident from the following considerations:

If charge has been brought against a defendant, the defendant has the inviolable right to restore his honor and reputation which are at stake, or at least imperiled, through the charges

preferred against him. After the trial has been opened the reputation can no longer be restored by a unilateral declaration made by the prosecution but only by a legal judgment. The unilateral withdrawal of an action by the prosecution after the trial has been opened would deprive the defendant of his right to know that in case of his innocence he has been exonerated from this charge by the judgment of the Tribunal.

By the withdrawal of a criminal suit the right to bring an action based on the offense is not "exhausted". The same applies to any declaration by the prosecution which in its effect means a withdrawal.

The exhaustion of a criminal suit, i.e., the inadmissibility of its being brought anew, can only be effected by a decision of the judge as to the criminal culpability of the act. If such a decision has been passed, there exists no possibility for any repeated trial in this criminal case according to the generally valid legal principle, which has also been included in the Constitution of the United States of America: * "*Ne bis in idem*".

Any other settlement of the criminal case would give the prosecution the chance of renewing the criminal action, bringing it, or having it brought before another Tribunal from which it expects a decision which would deem more favorable. By this, the defendant would be deprived of the possibility of appealing to the principle just mentioned.

After the trial has been opened the defendant thus is entitled to demand legal judgment on the charges contained in the indictment in spite of any apparent helpful declaration by the prosecution.

In addition to these reasons founded on the rights of the defendant, a further viewpoint speaks against that expressed by the prosecution in the session of 2 February 1948.

a. It is inherent in the nature of a criminal case that the violation of social or human order requires expiation through the punishment of the perpetrator. It is incumbent upon the prosecution to occasion the expiation by bringing in an action. The pronouncement of the punishment, however, is incumbent upon the Tribunal by passing a decision in the form of a judgment. The assertions of the prosecution within the limits of the indictment which it has submitted are opposed by the assertions of the defendant. Guilt or non-guilt are weighed according to the result of the case in chief. The judgment is based on the summing up and evaluation of all the documentary evidence.

b. Whatever the prosecution asserts in the indictment, what-

* Amendment to Constitution of the United States of America: " * * * Nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb."

ever it has proved or the defendant has refuted wholly or partly, is evaluated by the Tribunal, whose decision the prosecution applied for. No matter, whether the prosecution tries to extend or restrict the criminal action, or to renounce the further prosecution of certain parts of the case as not, or no longer being covered by the counts; it is exclusively the Tribunal which decides on the justification or nonjustification of these assertions be it by returning a verdict of guilty or not guilty. This conception alone comes up to the dignity and authority of the Tribunal which imperatively calls for the submission and investigation of the action in its entirety before the Tribunal, as it is worded in the indictment.

Thus the point at issue can only be whether, according to the indictment, Hildebrandt was charged before this Tribunal with his activity in Danzig-West Prussia or South Russia.

I compiled the evidence for this on pages 10-14 of this plea. I now refer to it.

I would only very briefly mention two points. In the indictment "occupied territories" are repeatedly mentioned, which can only mean the former German eastern provinces of West Prussia and Poznan. Furthermore, mention is made of the connection of the defendant Hildebrandt with VoMi and Lebensborn, and repeatedly that he was Higher SS and Police Leader. Moreover, the prosecution in their opening statements mentioned Hildebrandt many times in his capacity as Higher SS and Police Leader.

* * * * *

From all this, the text of the indictment, the opening statement, the documents, and the case in chief, there can be no doubt that the charges contained in the indictment are meant to embrace Hildebrandt's entire activity in Danzig-West Prussia, as well as that of chief of the RuSHA and as Higher SS and Police Leader in South Russia. All the events described in the indictment and discussed during the trial represent a uniform, homogenous activity on the part of Hildebrandt within the framework of the alleged systematic program of genocide aiming at the extermination of alien peoples and ethnic groups. This activity forms the subject of the indictment. The identity of his activity in Danzig-West Prussia is linked with the charges contained in the indictment. Therefore, the subject for the findings of the Court constitutes the entire activity of Hildebrandt in accordance with the indictment, as represented in the course of the trial.

The result of the legal examination is also based on considerations of legal policy.

1. Control Council Law No. 10, as expressed in the judgment in

the Justice trial, is said to be a legislative act of international authority.

a. Whether this view is correct remains an open question. The future will perhaps strip this so-called law of its legislative character and disclose its true meaning, namely that of an agreement among the victor nations for the implementation of punishment of alleged German war criminals.

b. However that may be, the judgment in the Justice Case* was forced to concede, and I quote:

“* * * that the Germans were not the only ones who were guilty of committing war crimes; other violators of international law could, no doubt, be tried and punished by the state of which they are nationals.

“In application of these principles, the authorization to punish violators of international law evidently does not depend on the issue of material provisions of penal law which are valid only in Germany.”

c. In conjunction with this, the judgment which has been frequently mentioned states, and I quote:

“Only by giving consideration to the extraordinary and temporary situation in Germany can the procedure here be harmonized with established principles of national sovereignty. In Germany an international body (the Control Council) has assumed and exercised the power to establish judicial machinery for the punishment of those who have violated the rules of the common international law.”

d. This attempt to justify the trials brought against only *German* so-called war criminals fails to manifest itself convincingly. In Germany, for lack of its own national government, there first had to be constructed with great effort an *ad hoc* legislative machinery based on a Control Council Law. In the countries of the victors where governments have been installed according to constitutional law, criminal proceedings could be initiated without any trouble on the basis of the existing criminal provisions.

2. Notwithstanding, this has not happened in any of the victor nations. Only in the vanquished country do we find thousands of men and women separated from their families and deprived from taking their part in the work of reconstruction which is so necessary, who have been languishing for almost 3 years in prisons charged with war crimes which they either allegedly or actually committed. The at least equally numerous war criminals in the lands of the victor nations are enjoying their liberty now as before

* Case of the United States vs. Josef Altstoetter, et al., vol. III, see judgment.

without any information coming to Germany that criminal proceedings had been initiated against them.

This fact, which appears odd to the mind of every German, makes understandable the resigned statement of one of the best known German authorities on international law * when he remarks, and I quote:

“From this time on two types of positive international law will prevail: One for German citizens * * * and another for the rest of the world.”

3. Laun is not alone in his conclusion. The foreign press as well has frequently characterized the Control Council Law as it is understood by many Germans and foreigners, namely that it is an exceptional international law that is directed exclusively against Germans.

4. In recent weeks there have appeared a number of articles in foreign but above all, also in the American press, dealing with the Nuernberg trials. The attention of the world has been focused repeatedly on the trial procedure. Trenchant criticism was not lacking in this respect.

5. In connection with the request of the Polish Government, of which the defense has been informed, to surrender the defendant Hildebrandt following the close of this trial the statement of the prosecution in the session of 2 February 1948 assumes a legal-political aspect in view of the questions of criminal law which I have just discussed. It gives rise to the assumption that an attempt is being made, through the intentional and willful restriction of the indictment counts against Hildebrandt with respect to his activity as Chief of the RuSHA, to make possible the transfer of Hildebrandt to Poland so that he may be judged there for his activities in Danzig-West Prussia.

a. For months the prosecution has withheld its statement and has not refuted the text and extent of the evidence deemed necessary by the defense. With respect to the indictment, Hildebrandt found himself forced to enlarge upon all the events the discussion of which had as its subject vital problems in relations between Germans and Poles. Hildebrandt did not defend himself as a private individual. Hildebrandt spoke as a former official of German Reich authority when he provided information for the benefit of the Court and his own defense.

b. Morals and morality in law require unlimited opportunity for defense. This was granted Hildebrandt by the Court. Hildebrandt made use of this opportunity. However, he could not anticipate that the testimony which he made here as a witness might be used against him, following the conclusion of this trial,

* “Die Haager Landkriegsordnung,” Professor Dr. Rudolf Laun, Hamburg, 1946, p. 64.

in another new trial against him as a defendant before a Polish court. The prosecution maintained silence as to his statements. Fair conduct on the part of the prosecution would at least have demanded some hint. The procedure followed by the prosecution towards Hildebrandt is not in harmony with the principle emphasized by me.

c. The defense does not wish to impute to the prosecution that the text of its statement of 2 February 1948 does not conform with their convictions regarding Hildebrandt's activity in Danzig-West Prussia. In the event of a judgment from this Court with respect to Danzig-West Prussia, the defense does not wish to contest the expectation of the prosecution to hear the declaration:

"I find no guilt in him."

Finally, the defense does not wish to deprive the prosecution of its belief in the weight of its statement that hereby a judgment for Hildebrandt's activity in Danzig-West Prussia can be obviated.

6. However, the defense is convinced that the prosecution is just as unaware of the desire of the Polish Government to have Hildebrandt extradited today, as of the subsequent obligation of the American extradition authorities to reject the extradition demand of the Polish Government after judgment has been passed on Hildebrandt's activity in Danzig-West Prussia, because respect for the American Constitution compels the American authorities to this action.

7. But it is not consistent with the spirit of the American Constitution to circumvent fundamental provisions in an unfair manner, Ralph Emerson * once said, and I quote:

"Morality is the ultimate goal of the State. A hundred years ago the American people attempted to establish the charter of human rights with almost ideal perfection. Obligations to humanity are incumbent upon the State. It is our duty to fight for liberty and justice to the very last at home and abroad. Since the world should be ruled by common sense and morality, it is the obligation of our nation to be noble. America should not be as were the old nations, greedy, exclusive, and intolerant, but a Samaritan as no other land * * * The legislation of this broad land must be more magnanimous than that of any nation. It must become cosmopolitan."

To entrust a human life to another power in the way contemplated by the prosecution is not consistent with the words of this great American philosopher, expressed with the high feeling of responsibility.

* "Emerson's Geisteswelt" by Paul Sakmann, Stuttgart, published by Frommanns, 1927, pp. 243-244.

8. The prosecution wants to wash its hands of the matter. It would transfer the responsibility for the legalization of extradition to the Court, from the decision of which it anticipates the possibility to do so. By its statement the prosecution demands nothing more or less than a confirmation by the Court for the benefit of its own secret motives. Such a legal policy is not in harmony with American justice. My fight for Hildebrandt's life, this "pure, unselfish character of a courageous and humane attitude" (*Hildebrandt 95, Hildebrandt Ex. 21*) is directed against this policy.

9. However, the action of the prosecution is also ill-advised. The prosecution is about to add its voice to the threatening voices abroad against its own trial procedure, and to make out of the RuSHA trial the "Hildebrandt Case", which would increase the mistrust of this system to an intolerable extent.

10. In this moment, who does not remember an incident of almost two thousand years ago, although unlike in great dramatic force when the Roman provincial governor was induced by Caiphas to surrender the guiltless to death, with whose blood he did not wish to stain his own hands?

I have trust that the Court in its justice, will bring to naught such intention. As the result of all my statements, no weight can be attached to the statement made by the prosecution on 2 February 1948 from the standpoint of criminal law. In spite of this statement, judgment must be made as to the culpability or non-culpability of Hildebrandt for his activities in Danzig-West Prussia, as was requested by the prosecution with the submission of the indictment.

* * * * *

B. Statement by the Prosecution *

PRESIDING JUDGE WYATT: In the opinion of the Tribunal, Dr. Froeschmann representing Hildebrandt, poses a rather important legal question and, that is, the right of the prosecution after the evidence has all been concluded, to carve up the indictment and simply restrict the Court to a consideration of a certain portion of it. That is a legal question to which the Court has already given considerable thought. It is one that the Tribunal is of the opinion you are entitled to have decided now, rather than in the judgment itself. The Tribunal will give more thought and consideration to this question and rule on it before this argument is concluded, probably just after the recess we are now to take.

The Tribunal will recess for fifteen minutes.

* Tr. pp. 5138-5140, 18 February 1948.

THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE WYATT: Mr. Shiller, the Tribunal has determined at this time to make a ruling on the legal question raised by Dr. Froeschmann. At your request, we have decided to allow you to state your position very briefly, and "briefly" means "briefly".

MR. SHILLER: May it please the Tribunal, the position of the prosecution on the legal question involved, that is, the question of the charges against the defendant Hildebrandt as Higher SS and Police Leader for Danzig-West Prussia, is as follows:

Our position is, first, that the indictment contains no charges against the defendant Hildebrandt as Higher SS and Police Leader for Danzig-West Prussia. As clearly set forth in the beginning of the indictment, in the description after the individuals named as defendants, whereas after the defendant Hofmann the indictment gives "later Higher SS and Police Leader for Southwestern Germany," after the name of the defendant Hildebrandt, there is no description given of his position as Higher SS and Police Leader.

Furthermore, in paragraph 22 the defendant Hildebrandt is especially charged with responsibility for and participation in the extermination program, known as the Euthanasia Program, from September 1939 to February 1940. No mention is made of the fact that he was then Higher SS and Police Leader, and the sole charge in that paragraph is in connection with the Euthanasia Program.

The prosecution claims that by construing these sections of the indictment, and the careful exclusion from the indictment of the position of the defendant Hildebrandt as Higher SS and Police Leader for Danzig-West Prussia that no charge was therefore made.

The second position of the prosecution is that if the Tribunal should determine that, nevertheless, charges were included in the indictment which cover the defendant Hildebrandt as Higher SS and Police Leader, that the withdrawal, or rather, the clarification by the prosecution on 2 February 1948 (*Tr. p. 4749*) of the charges, should be construed as a withdrawal of these charges; and the prosecution maintains that this withdrawal of the charges, even though it came after a time when all the evidence had been submitted both by the prosecution and the defense, should nevertheless be accepted by this Tribunal.

I know, and will be in a position, if the Tribunal so wishes, to cite instances where charges have been withdrawn after the evidence has been submitted both by the prosecution and the defense in cases before other Military Tribunals. I refer specifically to Case

1, the Medical Case, before the previous Tribunal I.
Thank you.

C. Determination of the Tribunal *

PRESIDING JUDGE WYATT: On 2 February 1948, the prosecution through Mr. Shiller, made the following statement in open Court:

"May it please the Tribunal: The Prosecution at this time would like to make a statement with reference to the defendant Hildebrandt. We wish to have it clearly set forth in the record that for the period from 1 September 1939 until April 1943, at which time the defendant Hildebrandt became chief of RuSHA, the only charge against the defendant Hildebrandt is the euthanasia charge contained in paragraph 22 of the indictment. We make no other charges against him for that period when he was Higher SS and Police Leader and representative of the RKFDV in Danzig-West Prussia."

This statement was made by the prosecution after the defendant had been formally arraigned and after he had filed his plea of "not guilty" to all of the charges contained in the indictment. It was, likewise, after all of the evidence had been submitted both by the prosecution and defense without any such limitation. The defendant Hildebrandt, therefore, had clearly been placed in jeopardy insofar as all of the charges in the indictment are concerned, before this motion was made.

It is the opinion of this Tribunal that at this stage in the proceedings the prosecution did not have the right to thus limit the Tribunal in its consideration of the case. This Tribunal will therefore decide the case, insofar as Hildebrandt is concerned, taking into consideration all of the charges contained in the indictment and the evidence adduced upon those charges in the trial of the case, and the prosecution will therefore not be permitted thus to limit the scope of this investigation.

Proceed with the next argument.

* * * * *

MR. SHILLER: If the Tribunal will give me one moment, I merely wish to point out that the prosecution's brief against the defendant Hildebrandt naturally did not cover his activities as Higher SS and Police Leader in any other connection than with euthanasia. I therefore respectfully request that the Tribunal allow both the defense and prosecution to submit their supplemental briefs covering such charges only.

PRESIDING JUDGE WYATT: The Tribunal, two to one, is of the opinion that this is not necessary and will not be permitted.

Proceed with the next item.

* Tr. p. 5140, 18 February 1948.

VIII. FINAL STATEMENTS OF THE DEFENDANTS *

DEFENDANT ULRICH GREIFELT: May it please the Tribunal:

After 60 days of proceedings before this Court, the prosecution, in its final plea, basically speaking, just repeated its assertions with which it had opened this trial, and has not considered any of the material we have submitted to the Tribunal in our case in chief. The closing briefs of the prosecution do not up to now exist in the German texts. However, to the extent that I could see from the English copy, hypothetical charges are also made here, hypothetical charges to which I can no longer explain my position. I really endeavored, to the best of my ability and to the utmost possibility, to clarify and give the true connections of the whole matter. I did not base my case on merely negative denials. I stated, in a positive manner, how matters were, why matters were that way, and explained the over-all connection of the measures which my agency had taken.

In the final pleas of my defense counsel, the individual arguments of prosecution have been refuted one by one. There are only three things I would like to say.

1. I am assisted by my good faith. In the same way as I followed the appeal of my Fatherland in 1914 and enrolled in the ranks of the soldiers, in the same way as I endeavored to serve the new German Republic in 1919, in the very same manner I followed Hitler's appeal when, in 1933, he promised to help the German people. No man can thrive without his Fatherland. That is what the German poet Theodor Storm said when he had to leave his Fatherland on account of personal persecution. In October 1939 I assumed my functions in the firm conviction that the Reich Government had established a law which could stand firm in every international investigation.

2. I am also assisted by my conviction that I always wanted the best. The task given to me was the care for German human beings who were channeled to my agency from other parties and on the selection of whom I had no influence. I devoted myself to this task with all my forces. I felt myself to be a servant of these people who were uprooted from their previous homes. I devoted myself to the foundation of a new life for them, to the consolidation of their existence, and thereby of their Germanism. That was my task. At no time did I even have a spark of an idea

* Tr. pp. 5254-5277, 19 February 1948.

to do harm to other human beings on account of them, to torture or to destroy them.

On the contrary also for people of foreign nationality who had been struck in the same way by the war, I intervened to the fullest extent of my possibilities and attempted to alleviate their fate. If, today, measures taken by other agencies are brought into connection with my activities and, as a whole, are to be considered incriminating, then all that is far removed from my own intentions. If such a conclusion was to be reached, then counsel for the prosecution, who was certainly not benevolent toward me, would have found the right criteria when in pretrial investigations, he said, "Why did you let yourself be used like that?" If I can claim for myself to have been in good faith and to have had the best of will, how far more can my collaborators then do so. Not only the collaborators who are with me today here in the defendants' dock, but also all those whose de-Nazification proceedings depend upon the outcome of this trial. For all of them I request, without consideration of my own person, that full recognition should be granted them as to these two viewpoints.

3. Thirdly, I am assisted by my clear conscience. During almost three years of custody, and to a large extent on the strength of the documents submitted in this trial, I have conscientiously and relentlessly investigated myself and my activities. My views into the happenings of the world have been broadened. As a result of this thorough investigation, I can say in all truthfulness of my heart, before God and man, that I always believed that I contributed to the best of humanity and that I acted in that direction. I committed no war crimes and no atrocities. I opposed injustice wherever I encountered it and, from a deep human feeling of duty, I did whatever I could against all cases of hardship which I noticed. The number of witnesses who saw in me a decent man, ready to help, who was far removed from every act of force, could easily be augmented. The Tribunal will find whether my way of life and my acts of commission or omission represent the picture of a criminal. I myself know that I always acted with a pure heart, and in this knowledge I believe that if I made mistakes—and after all, who among human beings does not make mistakes—then it is only a case of human imperfection. In that case, however, my thinking and my actions should not be tried by a human court, but they belong in the sphere of eternal justice. The words "He who has not sinned shall cast the first stone" have value before the court of eternal justice. I do not feel guilty.

Your Honors, in your verdict, do not let us be smitten by a ban of dishonor. Honor is the last good that remains to us, and I ask for your just verdict.

DEFENDANT RUDOLF CREUTZ: Your Honors:

Against the charge of the prosecution that the events recounted in these proceedings were the result of a systematic, consistent, and criminal plan, I wish to state the following:

The events discussed here constitute only a minor part of the total tasks of the Staff Main Office. These tasks of the Staff Main Office—namely, to accommodate the ethnic German immigrants as far as possible in the same way as they had lived in their former surroundings—were extensive and most difficult. In contradiction to the opinion of the prosecution, it is not easy to judge the importance of those tasks, and little has been said about it during these proceedings in order not to complicate the material presented even more. The difficulties standing in the way of the final solution of this task could, for the most, not be overcome as long as Germany was at war. But never could this task be called criminal, and none of the many workers in the Staff Main Office regarded it as such.

If international law, existing or still to be established, had been violated in any way by the measures taken by other persons in higher positions or by official authorities, I was in no position to know it at that time. I have never acted against any written law, and in cases where my own legal conscience fought against measures coming from above, I was only able to change the course of events within the sphere of my insignificant influence.

My legal conscience is all the more opposed to the fact that the prosecution will now burden me with the responsibility for those events, and with the fact that I am being charged with having instigated them and carried them out by means of a program of planned annihilation.

During the war I could no more relinquish my post at the Staff Main Office, which I had not chosen, than any soldier of any army could have relinquished. It was my belief that I must forego any wish, any desire, and any opinion of my own, as long as millions of German soldiers were offering their very lives.

However, if the Tribunal should see a guilt in that, then I will take this guilt upon myself without fear.

DEFENDANT KONRAD MEYER-HETLING: If your Honor please, I have only little to add to the plea of my defense counsel in a factual and in a personal way. The witnesses called by the defense and the documents submitted by the defense and also the witnesses of the prosecution here have clearly shown my activities. The additions necessary to that, I had the possibility to give myself in the witness stand. I have not withheld anything and I had nothing to withhold. What I was as a man and as a German

college professor, and what I still am, has been shown to the Tribunal by a multitude of evidence from Germany and from abroad. All this testimony was made by men who were neither members of the Nazi Party nor in any way connected with it.

I was raised in the belief that history is the primary condition for all thoughts and actions. A long peasant tradition of my family and the events of the First World War and the consequences which were dooming for my Fatherland were decisive for my own fate. The whole work of my life was intended for social pacification and progress of humanity, the preservation of peasantry and rural basis of my Fatherland, and the renovation of its spiritual and moral values. Science was my task. I served it for more than two decades. I had devoted myself to science with the whole passion of a scholar and above all, I devoted myself to the development of such discipline, the most exquisite aim of which is to serve welfare and to prepare a better future. Some fruits of my work have even lasted over the storms of these last years, and it is to be hoped that they will not perish in the future either.

During the proceedings, the prosecution has tried to mark me as a good Nazi. But after I emerged from this muddle of favor and hatred, of truth and distortion, and after I gained knowledge which I did not have before and could not have before, I know one thing—I was always a bad Nazi but a good National Socialist. I looked for my own way, not from any theory or doctrine, but only from a conception based on social justice, and seeing in it the essential moral value. Therefore, I claim for myself that I always made the distinction between the fact when nationalism ceases to be a virtue, and when it still is. To be a national man signifies for me not to despise or even hate other countries but to love my own country, and to know it, and to derive from that the esteem and the consideration for foreign countries. If in the hour of danger I put myself at the disposal of my Fatherland without regard to personal danger or personal privileges, then I did nothing else than what thousands of others did silently themselves and for which innumerable human beings lost their lives in good faith. To serve one's Fatherland during the war is, in the whole world, still considered the natural duty of a citizen, a right, and an honor.

In this hour I assert again that the activities for which I am called upon here to render account did not serve any temporary solutions connected with the war, and not as the prosecution tries to make believe, did it serve destruction. Only and alone it served the preparation of a definite peace—a happy period for all human beings—in this eastern space which had already so often decided the fate of the Occident and which rightly may be

called the "Devil's Belt of Europe." No Pole, no Czechoslovakian, and no Russian suffered any harm by my doings during the war. If in its plea, the prosecution brings me into connection with ideas of Himmler concerning the treatment of aliens or the evacuations, or wants to hold me responsible for confiscations, then quite apart from the plea of the defense the prosecution is already in contradiction with its own case in chief and the documents submitted by it and the witnesses called.

Only and alone as a German citizen did I comport myself in my activities and in no other capacity did I act. My activities were only based on the sense of duty of a German university professor and connected with the ever-increasing care for the maintenance of a venerable European heritage. These motives were binding enough for me. Only my conscience was my boss and nobody else. It is bitter that after years of custody and internment I am faced with a charge which distorts the best motives of a man whose way of life was straight and clean—in such a way that they mark him as a criminal or as a member of a criminal group. The prosecution uses every means for that purpose. In a completely distorting manner, and in a completely distorting translation, they quote in their final plea extracts of my Poznan speech which I made in the university there before a circle of interested personalities who had been invited. Beyond that, the prosecution tries to use the fact that I have the same name as a Dr. Meyer who is mentioned in Document NO-5243, Prosecution Exhibit 766, and to show that I had a connection with the DAG as a member of the supervisory board. But the case in chief has shown quite clearly that I am not that Dr. Meyer. The use of Document NO-5711, Prosecution Exhibit 866, is in the same line.

But even more bitter and more painful than personal dishonor, which can, however, not deprive me of my inner dignity, is the recognition on my part that even today, three years after the arms have been laid down, the world has not found yet the long hoped-for peace and the freedom from want and fear that had been promised. I mention that because my very work and my aims were intended for the doing away of sorrow and need. I trust that this Tribunal will consider the intent in my activities—the intent which was without trying to derive any advantages for myself and which was clean, and that it takes into consideration the conditions that prevailed during that period. If the endeavor for welfare and progress of man—this aim to which I devoted myself—is supposed to be a crime today, then I will take upon myself whatever judgment may be pronounced, and I will take it upon myself with a pure heart. However, before my conscience I acquit

myself as I did in the first hour of this trial because right is always on the side of the conscience.

DEFENDANT OTTO SCHWARZENBERGER: Your Honor, may it please the Court, after the final plea of my defense counsel, I would like to stress again that I never financed any crimes, as the prosecution charged without, however, submitting an evidence at all. Not one document shows that I financed crimes. Insofar as crimes have been committed, they were carried out by agencies which received no money from my treasury. Today, in the same way as at the beginning of this trial, I can state that I do not feel guilty.

DEFENDANT HERBERT HUEBNER: Your Honor, may it please the Court, if I am now today expecting your judgment after almost three years of custody, then I would not like to discuss factual questions in my final words again—factual questions which have already been discussed here. From the first day of my pretrial interrogation until now I always spoke the truth and nothing but truth and I was never refuted in one single point. I can't change it if the prosecution did not take into consideration my statements and if, in particular in their closing brief, they describe matters in a way which distorts the picture given in the case in chief. I cannot understand it either that from this distorted picture again they draw conclusions denuded of all logic. But I do believe that these constructions of the prosecution do not become truth by simply repeating and repeating their old assertions all over again. What can be brought to refute these assertions has already been explained clearly by my defense counsel.

When I came to Poznan there was an army of resettlers waiting there for welfare measures. The welfare for them was my duty, and this task was the task I devoted myself and my strength to. I was firmly convinced that on my part I was serving a good purpose, and I have never believed that on account of this humanitarian activity and in the name of this same humanity I would be brought to trial. If what I did was punishable, then I am taking upon myself this punishment at the same time for the many resettlers and refugees who still today thank me for my welfare measures and my help. However, I have full confidence that this high Tribunal will distinguish between the description of the prosecution and will see the immense gap between these charges and the results of the case in chief, that it will recognize the truth and render a just verdict.

DEFENDANT WERNER LORENZ: If your Honor please, when in autumn 1939 I received the assignment to organize and carry out the resettlement of German ethnic groups from abroad into the

German Reich, it was specifically pointed out to me by Hitler at the same time that this agency of mine had to carry out the work of peace in the middle of the war. We wanted to carry out a deed of peace. Wherever we came we were welcomed as saviours by the ethnic Germans. Never in my life have I experienced so much thanks and so much love as on the part of those human beings whom we wanted to help. Welfare and comradeship for all these men was a matter of course for us. That was the sense in which I assumed my functions at that time and carried out my task and that was the spirit also in which the whole work of my organization was carried out. I feel free of guilt and therefore I take over full responsibility for whatever happened VoMi with my knowledge and my will.

DEFENDANT HEINZ BRUECKNER: If it please the Tribunal, the prosecution from its opening speech until its final plea always tried to shake the credibility of all defendants and also my credibility. To that I have to make the following statement: Already when during the pretrial investigation I was repeatedly charged by the interrogator with speaking untruths and threatened with proceedings for perjury, I stressed that it was my endeavor to speak the truth and that that was the very reason why I had to refuse to constantly testify with regard to matters which I couldn't even know on account of my former position. When I was called as a witness in the course of this trial I did not try to embellish anything and I did not withhold any truth; I described my activities as they actually were. I believed that I had succeeded thereby to destroy a network of misunderstandings and distorted combinations. At the end of this trial now I have again to object to these unjustified attacks by the prosecution. I have to do it because these attacks are not in line with the truth. After the final plea of the prosecution it seems that in this trial there was no case in chief at all. If the prosecution, for instance, still charges that what they call the so-called ethnic Germans were caused to submit to resettlement by swindle and by deception and had been driven away from their homesteads like herds of cattle, then this is a conscious distortion which is in contradiction with the objective reason of the case in chief in every way. Finally, without any evidence, the prosecution charges that the withdrawal of identity cards of persons who did not submit to resettlements in Central Russia had resulted in the withdrawal of Russian cards from those persons also. It is true that in this connection the prosecution has not taken into consideration that a withdrawal of Russian cards was impossible because in these areas there were no Russian cards.

If it please the Tribunal, there are two matters that cause me to look into my future without any fear and with confidence. One is the conviction I have gained after a very conscientious scrutiny that before my own conscience I am not guilty. For the other, the fact that in spite of the proclamation of the prosecution and press and radio, nobody—not a single ethnic German—appeared as witness against me; that, however, ethnic Germans, without being asked and without knowing me, are helpful to me and my family during these very difficult days. As a German I was born into this fateful century. In this century I did my duty towards every human being and the ethnic Germans who were in my special care. Thus, I will know how to bear the fate which is in store for me.

DEFENDANT OTTO HOFMANN: If it please the Tribunal, your Honor, when in May 1945 the German Army surrendered, a section of my life had finished. If I gave myself up to the American Military Government on 7 July 1945 of my own free will, this was not lastly caused by a feeling of responsibility to render account for my activities and omissions, and finally in order to refute the tremendous charges and prejudices with which the SS was charged. As much as my own fate is one of my worries, as much I take a part in the fate of the innumerable SS members who, on account of the IMT judgment, had to take upon themselves very severe disadvantages. As a former higher SS officer I always considered it my duty to protect the SS men, those SS men who in the best of their belief of their good ideals and in their leaders risked their lives, and to protect these SS men from unjustified hardship.

The black day in this trial was for me 29 October 1947, when the former SS Lieutenant General von dem Bach-Zelewski was a witness for the prosecution and tried to charge not only the inner circle of his former comrades, but beyond that the whole SS, with tremendous crimes. The attitude of von dem Bach-Zelewski would not have to be considered in a very strong light if it only charged a small circle of the persons here accused, but in the age of de-Nazification it occurs that the authorities responsible for this de-Nazification consider these unjustified conclusions to be the truth. The negative results in the form of further automatic arrests, pronouncing of punishments in labor camps, seizure of property, and pronouncement of disciplinary measures, and other disadvantages, strike innumerable former SS members and bring tremendous hardships to their wives and children.

In a period where large circles start to reject the spirit of

revenge and hatred and urge an action caused by reason and by a large insight in the future the attitude of a von dem Bach-Zelewski must be considered irresponsible. I consider that it is my duty to state it again.

Now I would like to speak of the few charges in the prosecution's indictment. If there the prosecution tried to prove that the defense had tried all possible means to shirk responsibility and to diminish the value of the documents, then I may be permitted to say the following:

Purely mechanically, the prosecution gathered all the defendants in the dock as chiefs of various main offices and departments of Himmler without consideration of personal responsibility and guilt. The prosecution has constructed a connection between them which never existed to that extent.

Under a decree of the Fuehrer and Reich Chancellor of 7 October 1939, Article II, it was one of the tasks of the RKFDV to eliminate the damaging influences of alien ethnic groups. The Race and Settlement Main Office was not charged with this task—it did not receive any direct task in this decree—but the RSHA—all the events with which the prosecution deals in points 12, 13, and 14 were only and alone dealt with by the basic decree of the RSHA, settled by them and decided in their course.

In other words, it is doubtlessly the case that the building constructed by the prosecution is an artificial construction because the representatives of the RSHA, which was doubtlessly the most powerful and most important arm of Himmler, are missing in the defendants' dock. But in this main office all the questions of alien racial groups were decided. Looked at in that manner this misconstruction also influences the documents which are torn out of an organic connection and thus render a distorted picture. Therefore, the point was not to deny the value or contents of a document but to try to find out the true connections and thereby the actual value or relevance of the document.

As far as point 14 of the counts of the prosecution in connection with my own person as Higher SS and Police Leader are concerned, in the course of the methods of interrogation at that time, and in order to avoid even the slightest charge of using a lie as a way out, I stated that, during my period, about 15 to 25 such cases may have happened. In the witness stand I rectified my statement to the extent that at the most there could have been 3 to 5 cases. An individual case, however, I could not remember at all. Today, on the strength of the bilateral cases in chief, I can assert that, in fact, not one such case actually occurred.

This statement may be a proof for the fact that it was my

endeavor, in cases of doubt, rather to make statements against myself than to diminish the statements or to deny something. It may not be forgotten in this connection that, during the period when I was working as Higher SS and Police Leader in my area alone, seven towns were practically levelled, and that the air terror in the rural areas increased more and more; that during the day not a train and not a vehicle could be on the road without being in danger of being shot at; that peasants in the field and children on their way to school were attacked by low-flying aircraft and were not secure in their life any more. The losses among the civilian population increased in a tremendous way. Whoever judges and takes into consideration the situation of that period in a somewhat objective and just way has to admit that I had other worries than to ascertain whether and when a racial examiner was requested for an expert opinion. It may be more important that in spite of the enemy air raids I took more and more care of the prisoners of war, although they were the compatriots of those who attacked us by air day and night and brought terror into our areas. If today I look back on my work in the Race and Settlement Main Office and on my activity as Higher SS and Police Leader, then I have to ask myself whether I always acted in a just way and whether I could have acted in any different way. I think that I may say that at all times I acted in good faith that all the decrees were based on law and that there was no reason for me not to comply with them. The misuse made of parts of the SS and the crimes against humanity, of which I heard after the surrender, moved me all the more, since at all times I was guided by idealistic viewpoints and saw a sort of an order in the SS where allegiance and knighthood, loyalty and honor, and an exemplary family life were upheld. As much as I always declare myself ready to do away with prejudices and errors and to stand up for my own activities, as little can I take upon myself the guilt of a Himmler. He betrayed the SS without the knowledge and will of most of us. Therefore, it is a cheap procedure if the prosecution charges that we try to get everything back to the dead Himmler. I feel free of the guilt of having done or ordered anything inhuman, and with quiet confidence in justice I therefore look forward to the verdict of this high Tribunal.

DEFENDANT RICHARD HILDEBRANDT: Your Honor, if it please the Tribunal, it is a nice truth that a man's life is closely linked with the history of his nation, and the attempt to isolate the individual out of this context means to violate these facts.

It is not easy—without an interval of time—to distinguish cause and effect in matters with which this trial is concerned.

The historical meaning of these proceedings can only be accomplished if this is understood and recognized.

The longwinded plea of the prosecution which was made here on Friday last—a transparently pettifogging document—goes to show that the desire for truth appears not to exist at all on their part. If I myself endeavored to contribute a share to the discovery of that truth, as far as it concerns me as a man and as a German, it was done first and foremost because my conscience told me so, my conscience which now, as then, I consider a driving and regulating force of my life. I never did anything, or gave orders for anything to be done which would have brought me into conflict with my conscience.

I can, therefore, not recognize any guilt according to criminal law for the men under my leadership, for they only acted out of confidence in me and were tied by their oath. Their actions could only spring from the belief that my orders were necessary and lawful.

For them, as well as for myself, the well-known quotation for the letter to the Romans held good:

“Let every soul be subject unto the higher powers which are set above him, for there is no power but of God.”

Field Marshal Lord Montgomery expressed the same idea seen from the officer’s point of view, as follows, in 1946:

“It is the soldier’s duty to obey unquestioningly all orders issued to him by the Army, that is, the nation.”

I therefore am passionately opposed to the outrageous injustice of the IMT verdict against the General and the Waffen SS, and the branding of millions of women and children on the basis of it. It would be a delusion to expect that the blessing of the Lord will rest upon such doing.

Let nobody think that the German people or the service agencies under my command would have offered resistance against an overwhelming majority of enemies for 5 years, if criminal aims had been demanded. That would have run counter to everybody’s nature, and not least, my own.

It must have been something entirely different that made the overwhelming majority of Germans carry on to the end. Undoubtedly there were irrational forces and a conviction to be locked in a fight for life and death.

For 30 years we have known Soviets in our own country and in the East and have seen their doings. We know only too well what is behind it. Our sick prisoners of war returning from Russia, only a fraction of the total, brought renewed proof to us and I hope to the world as well.

It is a tragic error to think that this conflict started in 1941.

Plainly visible for everyone, it began after the first World War, when the power politics of Soviet ideology originated, and its deepest roots spring from the unsolved social problems of the twentieth century. Since then, the world has known no peace and shall know no peace as long as the Soviets transgress their own natural borders with crimes dressed up as a Messianic mission. The truth of this view has been experienced a millionfold in Germany since 1945, and this experience is being made anew each day.

While up to 1939 the whole of Germany suffered under the unsolved material and ideological problems of the East, today the whole of Europe is suffering from them in a much greater degree, thus proving the threatening of that problem, and hence Moscow's treason against its former allies.

I do not believe that the soldiers of the Western democracies fought for the Oder-Neisse Line or for the destruction of the most primitive human rights east of the Stettin-Trieste Line. Even less do I believe that these soldiers wanted to abandon the West, the home of their forbears, to the deadly peril of being subjected to the anti-Christian and anti-humanitarian forces.

Germany's and Austria's struggle has to be appreciated and judged from these aspects. We ourselves were, after all, only a small fraction of this world-wide conflict. In reality, the confusion and poisoning of Western Europe continues under the guise of democratic terminology.

A real charter of the rights of human beings would have to guarantee a world in which many ideologies could exist side by side. Values, social ideals, and cultural differences would have to be respected. This noble dream of humanity, however, cannot find fulfillment as long as the aggressive spirit and intolerance of the Bolshevistic world revolution threatens the liberty of the nations through the methods of inquisitions. I therefore, do not believe in a law of nations recognized generally, but only within certain geographical limits, and that only on the assumption that egotism, distrust, and indifference give way to a new spirit.

It is my innermost conviction that the future, which is still veiled, belongs to those who will know how to combine the meaning of love and courage, and the realization of their own shortcomings.

In the world conference for moral reconstruction held in October 1947 at Caux on the Lake of Geneva, Harry Wickham, the organizer of the Labor Party, said the following, and I quote:

"A feeling of shame rests upon me, that during the past 20 years we in England did so little to realize the many possibilities to help the Germans in order to forge a working democracy.

I shall live, work, and fight, together with my German comrades, in order to rebuild Germany and England.”

Those were Mr. Wickham's words.

You, too, gentlemen of the Tribunal, are placed at a decisive post in the struggle for a new world. If the battle for the soul of Europe is lost, then all our battles will have been in vain. This does not only concern myself. It involves much more. The stakes are to break the vicious circle of prejudice and hatred at last and give back to the world its belief in justice.

May I be able to convince you that also the German people are filled by a deep longing for a truly just order. How is that renaissance to take place without liberty and peace?

DEFENDANT FRITZ SCHWALM: Your Honors, convinced that my life and my actions would stand up to any inquiry, I volunteered as a witness in November 1945 for the defense counsel in the IMT,* as a witness for the SS, for that part of its organization into which I believed I had an insight and also especially for those men, Unterfuehrer and leaders who were confined in internment camps and who joined the SS for idealistic reasons as I did, and now are still benumbed by that blow of fate, the German collapse, and were almost unable to defend themselves against a proceedings which was even intended to rob them of their honor.

To what extent the IMT verdict was just with respect to the organizations will only be proved by history. When in the spring of 1947, I again came to Nuernberg as a witness for the defense, I found a large number of last year's witnesses as defendants in the various trials. Not even then did I think of the possibility that charges could or would be preferred against me. Well, that was a mistake on my part, and, as of 2 July 1947, I also was one of the number of witnesses of former trials who was subsequently put into the dock.

This, however, has not changed my attitude, not only to defend myself again before this Tribunal, but above all, to defend the organization and my numerous comrades who are today still held in camps without having been brought to trial. A name and a concept, which the prosecution suspected of evil actions was to be attacked—The Race and Settlement Main Office of the SS.

I am grateful to the Tribunal for having permitted statements and elucidations, which perhaps are apt to render a picture different from the one which was suspected. This picture, rendered in the course of the trial, could not even be obscured by the argumentation of the prosecution, although instead of the former

* Hearing before IMT Commission. See *Trial of Major War Criminals, op. cit. supra*, vol. XXI, p. 570.

distortions found in the indictment, the prosecution has tried to establish new and incorrect assertions, which in no way were proved in the course of the trial.

A decision of a racial examiner never resulted in a deportation to a concentration camp and sterilization, abortion, kidnaping, or destruction of human lives. It was not the racial examination that resulted in the so-called special treatment, but this "special treatment", the significance of which, as a measure of the State Police was not known to the RuSHA, was already being dealt with as a result of the State Police. The Race and Settlement Main Office neither directly nor indirectly dealt with the compulsory evacuation; and racial examination of a population which was to be compulsorily evacuated, was never implemented.

The classification into the groups 1, 2, 3, and 4 of the German People's List was not the business of the Race and Settlement Main Office not even as a result of the racial examination, but an ethnographic classification by the state authorities. And if, finally, the Jewish card index which, according to assertions of the prosecution up to now, was generally supposed to have supplied the data for the tracking down of the Jews, is now defined as the basis of sterilization, then this new assertion is just as hypothetical as the first one.

As is in compliance with the trial, which only deals with a definite period of time, up to now only the past has been discussed. Yet we are not only faced with the imperative demands of the present, but also with the imperative demands of the future. We, the young Germans, have drawn a very sober conclusion from this second collapse within not even 30 years and that is the following: We now have to look for the causes within ourselves, but not for the guilt. If we, nevertheless, still remained optimistic and continued to have the courage to go on living, then it is because of the knowledge which biology especially gives us. The theory of evolution has not only widened our view of the history of the past, but it particularly gives us new hope for the future. If uncounted millions of years were necessary to create man out of primeval life, then compared with these periods of time, man is at the beginning of his development and has approximately the same scope before him.

The greater our achievements in these fields of knowledge become, the harder the work will be to banish what today we still call misfortune. And yet this science conveys hope. This science and the belief in an eternal divine law can also spur us to action. This idea was recently expressed by the President of UNESCO, Julian Huxley.

I conclude with a sentence from Stoddard's Book, "Reforging

America”, which briefly says with regard to America what we also claim for ourselves in Germany. I quote:

“The American people have grasped the fundamental fact that no country can be a nation without the spirit of unity, and that such a spirit cannot exist without a fundamental consistency in the way of thinking of its citizens. This in turn can only develop in case of essential racial homogeneousness.”

DEFENDANT MAX SOLLMANN: Your Honors, about a year ago I looked to the day when finally the indictment would be handed to me, the indictment which in my case commenced with the words—The United States of America *vs.* Max Sollmann. The impact of these introductory phrases I never considered to be oppressive at any time. Rather, I was conscious at the time that even in this unusual situation of being a German citizen indicted by the United States, I was under the same protection as any American who would be in the same position. I have been able to experience the significance of this protection ever since this trial started. This conception culminates in the word “fairness”. I have felt no difference between the fairness of this Tribunal and the fairness which I experienced as a free man living for five years in the United States, where it was extended to me as a matter of course.

Before this Tribunal I have been able to get everything off my chest which I had to say with regard to the inconceivable assertions of the prosecution, assertions which will for all time remain incomprehensible to me.

I await the judgment of this Tribunal with composure and calm.

DEFENDANT GREGOR EBNER: Your Honors, when as a young man I decided to become a physician, I did not do that in order to gain prestige, nor in order to collect riches, but I did that prompted by an inner urge to help ill people needy of assistance. When I entered the Party and the SS, I did not do that in order to gain personal advantage. At that time I had everything which seemed desirable to me in life. I had a happy family life in my own home; I had the confidence of my patients. I did that because I recognized the bad situation which was prevailing in the country, and because I sympathized with the members of my nation who were suffering in the wave of inflation and unemployment; and when finally I went to Lebensborn, I did that prompted by my love to the medical profession and prompted by my compassion with mothers and children who, because of wrong moral conceptions, were not or could not be cared for by their own people and were covered with shame. All the motives which prompted me in my life in any actions, I have examined throughout my life. It

may well be that my opinions were not always correct; it may be that I did not always see properly the realities of life, considering the one-sidedness of my professional activity; but one thing I do know today is that I am free of guilt; that I am free of guilt of having committed a crime or having assisted in the commission of any crime.

My fate, your Honors, and therewith the fate of my wife and my children, are in your hands. I have within me the inner peace of the philosopher, and I rely upon your justice.

DEFENDANT GUENTHER TESCH: Your Honors, what had to be said with respect to the assertions of the prosecution has already been stated before. I regret very much that our work of explaining the entire situation in many respects did not fall on fertile ground. I have been able to find out that even translation mistakes which we have corrected are still now taken over by the prosecution; names have been struck out, etc.

The activity of Lebensborn, however one may understand it, consisted of care for other people. Mistakes may have occurred, errors which one may only be able to judge today in retrospect. The basic motives, however, the basic motive for helping and assisting other people was predominant in every case. I personally at no time had any other motive, nor did I at any other time follow any other intentions.

DEFENDANT INGE VIERMETZ: Your Honors, I am not in agreement with the final plea of my defense counsel. I did not help women and children in order to be praised for it. I helped them because I wanted to help them, and because I had to help them. I never expected any thanks for that; but that I would be placed before a court because of my helping activities—that is something I never comprehended and I still cannot understand it at the end of this trial. In the future it will never be comprehensible to me because I cannot believe that my work was ever a crime.

IX. OPINION AND JUDGMENT

The constitution, powers, jurisdiction, and functions of this Tribunal are fully stated in the judgment of the International Military Tribunal and the following subsequent cases: The United States of America *vs.* Brandt, et al, Case No. 1; the United States of America *vs.* Altstoetter, et al, Case No. 3; and the United States of America *vs.* Pohl, et al, Case No. 4. We deem it sufficient to say that this case was submitted to this Tribunal, and the trial conducted, in accordance with the law and rules of procedure applicable to the Tribunal.

When it is considered that the oral and documentary evidence in this case consists of approximately 10,000 pages, it becomes readily apparent that any effort to even summarize the evidence would be impracticable. We shall, in the main, therefore record here our findings. Those interested in the details of evidence must be referred to the record.

During the course of the trial several witnesses, including some defendants who made affidavits that were offered as evidence by the prosecution, testified that they were threatened, and that duress of a very improper nature was practiced by an interrogator. The affidavits referred to were excluded from the evidence and have not been considered by the Tribunal.

Considerable evidence on the part of the defense was adduced to the effect that certain functions, actions, and measures taken, were Party matters while others came under the competency of offices of the government. In our opinion this attempted differentiation of spheres of competency makes no difference. In practice the Nazi Party and the Government in Germany under Hitler were one and the same thing. In fact, the law in Germany under date of 1 December 1933 declared the unity of the Nazi Party and the German State.

The indictment in this case is framed in three counts. The first and second counts charge the commission of crimes against humanity and war crimes, respectively. Count one alleges, in substance, that between September 1939 and April 1945, all of the defendants—

“were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups connected with atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, persecutions on political, racial, and religious

grounds, and other inhumane and criminal acts against civilian populations, including German civilians and nationals of other countries, and against prisoners of war.”

Count one further alleges that these—

“Acts, conduct, plans and enterprises * * * were carried out as part of a systematic program of genocide, aimed at the destruction of foreign nations and ethnic groups, in part by elimination and suppression of national characteristics. The object of this program was to strengthen the German nation and the so-called ‘Aryan’ race at the expense of such other nations and groups by imposing Nazi and German characteristics upon individuals selected therefrom * * * and by the extermination of ‘undesirable’ racial elements. This program was carried out in part by—

- (a) Kidnaping children.
- (b) Abortions.
- (c) Taking away infants of Eastern workers.
- (d) Punishment for sexual intercourse with Germans.
- (e) Preventing marriages and hampering reproduction of enemy nationals.
- (f) Evacuating enemy populations from their native lands by force.
- (g) Forced Germanization of enemy nationals.
 - (1) Slave labor.
- (h) Plunder.
- (i) Persecution of Jews.”

Count two, which charges the defendants with war crimes, alleges that all the defendants between September 1939 and April 1945—

“Were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups connected with atrocities and offenses against persons and property constituting violations of the laws or customs of war, including but not limited to plunder of public property, murder, extermination, enslavement, deportation, imprisonment, torture, and ill treatment of and other inhumane acts against thousands of persons. These crimes embraced, but were not limited to ‘the ten specifications made in count one,’ and were committed against prisoners of war and civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by, Germany.”

The fourteen defendants in this case were, in various capacities, connected with four organizations, namely, Reich Commissioner for Strengthening of Germanism, Staff Main Office (commonly

known as the "Staff Main Office of RKFDV", and hereinafter referred to by that designation); the Repatriation Office for Ethnic Germans (commonly known as VoMi, and so referred to hereafter); the SS Race and Resettlement Main Office (commonly known as RuSHA, and hereinafter so designated); and the Well of Life Society (commonly known as Lebensborn, and so referred to hereinafter). The organizations were under the supervision and direction of Reich Leader SS Himmler, as Reich Commissioner for the Strengthening of Germanism. Each organization had certain well-defined tasks, which after 1939 were modified or expanded as the recent war progressed. The organizations worked in close harmony and cooperation, as will later be shown in this judgment, for one primary purpose in effecting the ideology and program of Hitler, which may be summed up in one phrase: The two-fold objective of weakening and eventually destroying other nations while at the same time strengthening Germany, territorially and biologically, at the expense of conquered nations.

In the execution of this broad program, Hitler selected Himmler, the notorious leader of the SS. The decree issued by Hitler on 7 October 1939, appointing Himmler, states, in part—

"The consequences which Versailles had on Europe have been removed. As a result, the greater German Reich is able to accept and settle within its space German people, who up to the present had to live in foreign lands, and to arrange the settlement of national groups within its spheres of interest in such a way that better dividing lines between them are attained. I commission the Reich Leader SS with the execution of this task in accordance with the following instructions:

"Pursuant to my directions the Reich Leader SS is called upon—

"1. to bring back those German citizens and racial Germans abroad who are eligible for permanent return into the Reich.

2. to eliminate the harmful influence of such alien parts of the population as constitute a danger to the Reich and the German community.

3. to create new German colonies by resettlement, and especially by the resettlement of German citizens and racial Germans coming back from abroad."

Himmler lost no time in promulgating measures to be applied in effectuating the Germanization program. Poland had just been overrun by the Nazis; and by a Hitler decree territories in Poland had been annexed to the Reich. These territories, in numerous decrees, were referred to as "the Incorporated Eastern Territories". The balance of Poland was known as the "Government General".

As early as 25 November 1939, Himmler had received a forty-page treatise entitled, "The Problem of the Manner of Dealing with the Population of the Former Polish Territories on the Basis of Racial-Political Aspects," which had been compiled by the Racial-Political office of the NSDAP (Nazi Party). A few excerpts from this lengthy treatise are sufficient enlightenment as to the proposed manner of "dealing with the former Polish territories". After lengthy quotations of statistics on the population of these territories, the treatise states:

"It follows from these statistics, that in the districts until now under Polish sovereignty, there were 86 percent Poles and 5 percent Jews, compared to only 7 percent Germans. Consequently, the necessity arises for a ruthless decimation of the Polish population and, as a matter of course, the expulsion of all Jews and persons of Polish-Jewish mixed blood.

"If the transfer of Poles from the Reich territory is not effected in a ruthless manner, it has to be feared that the Polish population will increase more or less at the same rate as before the war and up till now."

With reference to a classification of the population and their treatment, the treatise states:

"Who is a German?

"A German is [one] who, in folkdom, custom, and family community, lives as a German, if he is of German or related blood. These Germans are to be included in a German People's List.

"We have to have such an awe and respect for the blood witnesses since 1918 and the distress of these Germans who were conscious of their people that we will not be unnecessarily generous.

"All Germans, beyond doubt established as German nationals, are to be registered in a German People's List. They received the German citizenship. Only these Germans have the right to be Reich citizens.

"All other persons are not entitled to the right to be Reich citizens and therefore have no political rights.

"In the future Germans are to carry exclusively German names; that is, family names which in their root and etymology are of German origin. Names which are only Germanized in the written form, but show their Slavonic origin, cannot be regarded to be German names. They, too, are to be changed.

"The official language of all authorities, including courts, is exclusively German.

"Economy and culture.

"Poles cannot be business owners. The real estate, also the

farms they possessed up to now, are being expropriated. Poles are not permitted to exercise an independent trade and cannot be masters of a trade; all existing apprentice contracts are annulled; promising Polish apprentices can be taken to Germany proper as apprentices.

“As to the treatment of the population remaining in the Eastern territories—mainly of the Polish and the German-Polish mixed population—it is constantly to be born in mind that all measures of the legislature and administration have but one purpose, namely, to achieve a Germanization of the non-German population by all means and as quickly as possible. For this reason a continuation of a national Polish cultural life is definitely out of question. The Polish orientated population, in as far as it cannot be assimilated, is to be deported, the remainder to be Germanized. Therefore, a basis for a national and cultural autonomous life must no longer exist. In future there will be no Polish schools in the Eastern territories. In general there will be only German schools with emphasis on National Socialist racial teachings. Poles and members of the German-Polish mixed population who are not yet completely Germanized are not permitted to attend German universities, trade schools, or high and secondary schools. Children of the members of this part of the population are only admitted if they are members of the Hitler Youth and are reported by it.

“Any religious service in Polish is to be discontinued. The Catholic and even the Protestant religious service are only to be held by especially selected German-conscious German priests and only in German. Considering the political importance and the danger of the Catholic-Polish church connected with it, one could get the idea to outlaw the Catholic church entirely. However, one has to keep in mind that the population is strongly attached to the church and that such a measure could perhaps result in the opposite of a Germanization. Specially selected, German-minded Catholic priests could probably gain not unimportant a success for the Germanization by a clever influence on the Catholic-Polish part of the population. The probability that especially Catholics of German extraction who were Polonized in the past centuries could, with the help of suitable German priests, be brought back to the German people is very great. In case of the Protestant church, the priests who during the Polish time, especially during the last year, tried to betray the German people in a hatefulness which can hardly be described (under the leadership of their bishop Bursche), are ruthlessly to be removed as enemies of any national conviction and of National Socialism. Polish church holidays are to be

abrogated. Only the holidays of both denominations permitted in the Reich are to be observed.

"In order to prevent any cultural or economic life, Polish corporations, associations, and clubs cease to exist; Polish church unions are also to be dissolved.

"Polish restaurants and cafes as centers of the Polish national life are to be closed down. Poles are not permitted to visit German theaters, variety shows, or cinemas. Polish theaters, cinemas, and other places of cultural life are to be closed down. There will be no Polish newspapers, nor printing of Polish books, nor the publishing of Polish magazines. For the same reasons Poles must not have radios and should not possess a phonograph.

"The aim of the policy in the East.

"The aim of the German policy in the new Polish territory in the East must be the creation of a racial and therefore intellectual-psychical as well as national-political uniform German population. This results in the ruthless elimination of all elements not suitable for Germanization.

"This aim consists of three interwoven tasks:

First, the complete and final Germanization of the population which seems to be suitable for it.

Second, deportation of all foreign groups which are not suitable for Germanization; and

Third, the resettlement by Germans.

"Our Germanization policy has the aim to extract the Nordic groups from the remaining population and to Germanize them, and, on the other hand, to keep the racially foreign Polish strata on a low cultural level and to deport them from time to time to central Poland.

"Treatment of the mixed population.

"These thoughts make it most recommendable to transfer these persons, who were not included in the German People's List but who live in a racial mixed marriage with Poles or who are of mixed German-Polish descent, to Germany proper, if they were not especially active for the Polish ideology. The final Germanization can be achieved in Germany proper. Children from such German-Polish racial mixed marriages have, whenever possible, to be educated in Germany proper and in German surroundings (educational institutions). The influence of the Polish parent must be excluded to the greatest possible extent.

"Germanization of the Polish population.

"Probably only a small part of the Polish population within the new Reich territory can be Germanized; the easiest way will be to transfer them, and especially their children, to Ger-

many proper, where, as a matter of course, a collective employment or settlement is completely out of question.

“Special treatment of racially valuable children.

“A considerable part of the racially valuable groups of the Polish people, who, on account of national reasons are not suitable for Germanization, will have to be deported to the rest of Poland. But here it has to be tried to exclude racially valuable children from the resettlement and to educate them in suitable educational institutions, probably like the former military orphanage at Potsdam, or in a German family. The children suitable for this are not to be over 8 to 10 years of age because, as a rule, a genuine ethnic transformation, that is, a final Germanization, is possible only up to this age. The first condition for this is a complete prevention of all connections with their Polish relatives. The children receive German names which etymologically are of accentuated teutonic origin, their descendant certificate will be kept by a special department. All racially valuable children whose parents died during the war or later will be taken over in German orphanages without any special regulation. For this reason a decree prohibiting the adoption of such children by Poles is to be issued.

“Any keeping of biologically healthy children in church institutions is prohibited.

“Children of such institutions, if no older than approximately 10 years, are to be transferred to German educational institutions.

“Poles with a neutral attitude, who are willing to send their children to German educational institutions, do not need to be deported to the rest of Poland.

“As already related, the final aim must be the complete elimination of the Polish national spirit. Those Poles who cannot be Germanized must be deported to the remaining Polish territory.

“In all cases of eviction of classes which are racially equivalent to us and valuable, the possibility of a retention of the children and their special education is to be considered.

“If the Eastern territories are to be Germanized it is necessary that all the land, also land which was handed down from generation to generation by its Polish owners, be expropriated in favor of the German settlers. Thereby the Polish peasant loses the basis of his existence and is therefore to be deported to the remainder of Poland, if he cannot be Germanized.

“Jews, regardless whether they are Jews by creed or baptized, are to be deported to the remainder of Polish territory by cancellation of all their obligations ruthlessly and as soon as possible.

"Persons of mixed Polish-Jewish blood, regardless of their degree, are to be placed on the same level, without any exceptions and under all circumstances, as Poles and Jews who are to be deported."

Dealing with the problem of resettling the area from which the Polish were to be transported, the treatise states:

"Efforts are to be made to repatriate all Germans without exceptions from the remainder of Poland and the territories falling to Russia into our new Eastern territories.

"With reference to Germans overseas and their settlement, this question can only be solved after the war, in view of transportation facilities, if for no other reason."

Under the subhead "The treatment of Poles and Jews in the remaining Poland," the treatise states:

"Independent of the not yet published future solution of the problem regarding the legal state structure of the remainder of Poland, one must start from the fact that the remainder of Poland will also in the future be under the ruling influence of the Reich.

"The population of this territory is composed of Poles and Jews and, in addition, of a large number of Polish-Jewish half breeds. A part of the population must be considered as definitely of alien blood from a racial point of view, at any rate as unsuitable for assimilation. Under the circumstances it must be stated in principle that the German Reich is in no way interested in raising the Polish and Jewish parts of the population of the remainder of Poland to a higher racial and cultural level or in their education.

"The inhabitants of the remainder of Poland must be given their citizenship. However, they are not to have any independent political parties and associations which might provide a possible nucleus for a future national concentration must be forbidden. Nonpolitical clubs should not be allowed either, or only from very special points of view. Cultural associations, for instance, vocal societies, clubs for the study of the home-country, gymnastic and sport clubs, social clubs, etc., can by no means be regarded without misgivings, as they can easily promote nationalism among their members. In particular, the gymnastic and sport clubs also lead to a physical strength of the population in which we are not interested.

"Medical care on our part should be confined to preventing epidemics from spreading to the Reich territory.

"All measures serving birth control are to be admitted or to be encouraged. Abortion must not be punishable in the remaining territory. Abortives and contraceptives may be publicly

offered for sale in every form without any police measures being taken. Homosexuality is to be declared as not punishable. Institutes and persons who make a business of performing abortions should not be prosecuted by the police. Hygienic measures from a racial point of view should not be encouraged in any way.

“It will be the task of the German administration to play up the Poles and Jews against each other.”

From the quoted excerpts it may be seen that in the very beginning the Germanization program envisioned certain drastic and oppressive measures, among them: Deportation of Poles and Jews; the separation of family groups and the kidnapping of children for the purpose of training them in Nazi ideology; confiscation of all property of Poles and Jews for resettlement purposes; the destruction of the economic and cultural life of the Polish population; and the hampering of the reproduction of the Polish population. This policy was put into practice in all of the countries, twelve in number, as they were ruthlessly overrun by Hitler's armed forces.

Following receipt of the treatise quoted, Himmler issued a directive, entitled “Reflections on the Treatment of Peoples of Alien Races in the East,” which stated:

“Within a very few years—I should think about 4 to 5 years—the name of the Cashubes, i.e., must be unknown, because at that time there won't be a Cashubian people any more (this also goes especially for the West Prussians). I hope that the concept of Jews will be completely extinguished through the possibility of a large emigration of all Jews to Africa or some other colony.

“Within a somewhat longer period, it should also be possible to make the ethnic concepts of Ukrainians, Goralen, and Lemken disappear in our area. What has been said for those fragments of peoples is also meant on a correspondingly larger scale for the Poles.

“A basic issue in the solution of all these problems is the question of schooling and thus the question of sifting and selecting the young. For the non-German population of the East there must be no higher school than the fourth-grade elementary school.

“The sole goal of this school is to be simple arithmetic up to 500 at the most; writing of one's name; the doctrine that it is a divine law to obey the Germans and to be honest, industrious, and good. I don't think that reading should be required.

“Apart from this school there are to be no schools at all in the East. Parents who from the beginning want to give their children better schooling in the elementary school as well as

later on in a higher school must take an application to the Higher SS and the Police Leaders. The first consideration in dealing with this application will be whether the child is racially perfect and conforming to our conditions. If we acknowledge such a child to be as of our blood, the parents will be notified that the child will be sent to a school in Germany and that it will permanently remain in Germany.

"The parents of such children of good blood will be given the choice of either giving away their child (they will then probably produce no more children so that the danger of this subhuman people of the East obtaining a class of leaders which, since it would be equal to us, would also be dangerous for us will disappear) or else the parents pledge themselves to go to Germany and to become loyal citizens there. The love towards their children whose future and education depends on the loyalty of the parents will be a strong weapon in dealing with them.

"Apart from examining the applications made by parents for better schooling of their children, there will be an annual sifting of all children of the General Government between the ages of six and ten in order to separate the racially valuable and nonvaluable. The ones who are considered racially valuable will be treated in the same way as the children who are admitted on the basis of the approved application of their parents."

It might be well to remember that these measures, in the early days of the war, were among the first of many to be adopted and laid down in hundreds of decrees and directives; and as the ferocity of the war quickened, more drastic decrees and barbaric policies were adopted. For instance, as will be subsequently shown, the solution of the question of dealing with the so-called "racially inferior" population was solved not so much by deportation as by the adoption of extermination measures, thus bringing about a speedier elimination of undesirable foreign elements by death.

Besides Hitler, Himmler entrusted knowledge of his directive to only a very select group of persons, including the defendant Greifelt. That Himmler was fully aware of the diabolical nature of the proposed program is evidenced by the fact that on 28 May 1940, in a handwritten memorandum, Himmler said:

"On Saturday, 25 inst., I handed my report on the treatment of peoples of alien races in the East to the Fuehrer. The Fuehrer read the six pages and considered them very good and correct. He directed, however, that only very few copies should be issued, that there should be no large edition, and that the report is to be treated with utmost secrecy.

"One copy was given to the chief of my office, SS Brig. General Greifelt in his capacity as Reich Commissioner for the

Strengthening of Germanism. I shall give him the order to inform in turn all chiefs of the Main Offices. The notification to the chiefs of the Main Offices shall be effected by an SS leader who will have to wait until the concerned chief of the Main Office has read the report and has acknowledged it by his signature. At the same time everyone has to confirm that he has been informed of the fact that this is to be considered as a directive, but that it shall never be laid down in an order of one of the Main Offices; neither in form of a mere excerpt nor from memory.

“Moreover SS Brig. General Greifelt is authorized to bring the contents of the report to the attention of the town mayor Winckler and his own main collaborators; the latter he shall suggest to me.”

Prior to the distribution of his directive, and shortly after his appointment, Himmler had entrusted to Greifelt the responsibility of carrying out tasks connected with the Germanization program by a decree, reading in part:

“1. By the Fuehrer decree, dated 7 October 1939, I have been appointed Reich Commissioner for Strengthening of Germanism.

“2. For the direction and promulgation of general orders and directives and for the execution of certain tasks which can only be dealt with centrally, I establish the office of the Reich Commissioner. I have placed SS Oberfuehrer Greifelt in charge.

“3. I wish to mention particularly some of these tasks as well as the institutions and agencies which are charged with the solution and execution of these tasks.

a. VoMi and Foreign Organizations bring in the Germans and ethnic Germans.

b. Reich Health leader and RuSHA examine all Germans from the Reich and abroad in the new areas in town and country.

c. The Security Police in cooperation with the chief of the Civil Administration establishes and takes care of foreign elements dangerous to the German Folkdom.”

Immediately after his appointment as RKFDV, and prior to the issuance of the directive on the treatment of Peoples of Alien Races in the East, Himmler had already inaugurated certain measures. One of the first steps was an order marked “urgent decree” issued on 16 December 1939, concerning confiscation, and reading:

“1. To strengthen Germanism and in the interest of the defense of the Reich, all articles mentioned in section II of this decree are hereby confiscated. This applies to all articles located

in the territories annexed by the Fuehrer's and Reich Chancellor's decree of 12.10.39 and in the General Government for the occupied Polish territories. They are confiscated for the benefit of the German Reich and are at the disposal of the Reich Commissioner for the Strengthening of Germanism. Provided always that this does not apply to articles which are fully or for more than 75 percent the property of German citizens or persons of German race. In particular are confiscated all articles mentioned in section II which are in archives, museums, public collections, or in the private possession of Poles and Jews if their protection and expert safekeeping is in German interest.

II

"1. Historical and prehistorical articles, documents, books, which are of interest for questions of cultural value and of public life, specially for the question of the German share in the historical, cultural, and economic development of the country, and documents which are relevant for the history of present events.

"2. Articles of art of cultural value, e.g., pictures, sculptures, furniture, carpets, crystal, books, etc.

"3. Furnishings and jewelry made of precious metal.

IV

"All confiscations made before this decree by authorities of the Reich Leader SS and Chief of German Police and the Reich Commissioner for the Strengthening of Germanism are hereby confirmed. They are to be regarded as made for the benefit of the German Reich and are at the disposal of the Reich Commissioner for the Strengthening of Germanism."

On 11 June 1941, Himmler, in his capacity as RKFDV, changed the name of the office of the RKFDV to the Staff Main Office of the RKFDV, with the defendant Greifelt remaining as its chief. At the same time Himmler provided that the Staff Main Office and VoMi, with the defendant Lorenz as chief of that office, should be "on an equal level with the Main Offices" of the SS Supreme Command.

Many orders and instructions were issued concerning the spheres of activity of the four offices charged with the execution of the Germanization program. It would serve no practical purpose to quote extensively from the various decrees; but, briefly, it may be stated that the four organizations involved were charged with, and participated in, the following activities:

According to an ordinance issued by Himmler on 28 November 1941—

"The task of the Staff Main Office comprises the whole plan-

ning of settlement and development in Germany and in the territories under German supremacy as well as the realization of that planning. It includes also the cultural and administrative planning and the propaganda for the idea of settlement. The Staff Main Office is thus in charge of all questions of allocation of German people for settlement in Germany and in territories under German supremacy including all questions of an administrative and economic character connected with settlement.

"As far as economic questions arise in connection with resettlement the Staff Main Office deals with them."

The Staff Main Office was actually the directing head of the whole Germanization program, coordinating the activities of the other organizations. Before the end of the war, the activities of the Staff Main Office involved, among other things, the expulsion and deportation of whole populations; the Germanization of foreign nationals; the deportation of foreigners to Germany as slave labor; the kidnaping of children; and the plundering and confiscation of property of enemy nations.

The defendant Greifelt was chief of the Staff Main Office; Creutz was his deputy; Meyer-Hetling was head of the Planning Office of the Staff Main Office; and Schwarzenberger was chief of the Finance Office of the Staff Main Office.

As to the competency of VoMi, the ordinance stated:

"The VoMi carries out the whole ethnical work for the Strengthening of Germanism in Germany and in the territories under German supremacy. This work includes also the accomplishment of measures for the reception of persons and of foreign nationals considered fit for Germanization (German Ethnical Register 3 and 4) into the German racial community.

"Under its supervision is placed the evacuation within the framework of eventual resettlement of ethnical Germans from their former homes and the whole administration and care of the camps."

VoMi came into existence prior to the commencement of the war, and after Himmler's appointment as RKFDV he utilized this office primarily as an agency charged with the evacuation of ethnic Germans, as well as foreigners of non-German blood, from their former countries and the transportation of these persons to collecting camps, known as VoMi camps. In the course of these activities, VoMi became directly or indirectly involved in the forced expulsion of the populations of various countries; conscription of enemy nationals for the SS and the armed forces; compulsory Germanization of enemy nationals; the utilization of

foreigners as slave labor in the Reich; and the kidnaping of alien children.

The defendant Lorenz was chief of VoMi; and the defendant Brueckner was head of Amt VI—Safeguarding of Germanization of the Reich.

As to RuSHA, the ordinance provided:

“The RuSHA is an advisory and executive office for all questions of racial selection. It has to handle the examination of the racial Germans who are to be resettled in Germany as well as the examination of the settlers in the East coming from Germany. The RuSHA also has to carry out the racial selection of the groups of foreign nationals with regard to the fitness for Germanization of single families and persons and the racial examination for marriages with foreign nationals.”

RuSHA, which existed long prior to the war, was originally concerned primarily with checking on candidates for admission to the SS, as well as marriage applications of SS members, the purpose of these functions being to safeguard the SS against alien blood and the making of the SS into a Nazi aristocracy. But with the advent of the war, the original aims of RuSHA were largely abandoned; and entrusted to that organization was the task of screening millions of people in carrying out the Germanization program. RuSHA conducted, through racial examiners, racial examinations in connection with Germanization, the transfer and expulsion of populations, abortions, slave labor, persecution of Jews and Poles, punishment for sexual intercourse between Germans and non-Germans, and the kidnaping of foreign children. The racial examination determined the treatment to be accorded the person to be examined.

The defendant Hofmann was chief of RuSHA from July 1940 to April 1943. When Hofmann left that office in 1943, the defendant Hildebrandt took over and continued as chief until the end of the war.

In connection with the re-Germanization of Poles, a field office was set up in 1940 in the incorporated territories of Poland with the defendant Schwalm in charge. He became chief of the branch office at Lodz in January 1941 and remained in that capacity until September 1941. Also, during this period, he was chief of the RuSHA agencies in the EWZ. After a term of military service, Schwalm became staff leader of the RuSHA, serving in that capacity from 1 March 1943 until February 1945.

The defendant Huebner was RuSHA field leader in the Warthegau, with headquarters in Poznan, and was chief of the resettlement staff Poznan as well as labor staffs.

The Lebensborn society existed long prior to the outbreak of

hostilities. This society was primarily a maternity home. Included in its activities, before and during the war, was the placing of children born in the maternity homes in foster homes.

Evidence produced by the prosecution discloses that since the cessation of hostilities, IRO, an agency engaged in tracing foreign children brought into Germany, has located approximately 10,000 foreign-born children in the American Zone of Germany. Of this number, according to the prosecution's evidence, Lebensborn had been connected with only 340 in any manner.

Sollmann was managing director of Lebensborn; Tesch was Sollmann's deputy and head of the Main Legal Department; Ebner was head of the Main Health Department; and Viermetz was in charge of the department dealing with homes and adoptions as well as the employment department, and later, Main Department A.

We have attempted to give an over-all picture of the organizations charged with participating in the Germanization program. We shall now deal with the specific crimes charged in the indictment, and the participation or nonparticipation of each organization in the crimes charged; and, in part, we shall discuss the role played by certain defendants in the Germanization program and in connection with particular crimes.

KIDNAPING OF ALIEN CHILDREN

The Nazis, soon after the invasion of Poland, began an extensive campaign of kidnaping foreign children. Although at first these kidnapings were confined, principally, to so-called ethnic Germans, it soon became apparent that sufficient children were not being secured to satisfy the Nazi aims; and the program was therefore extended to include all children of "good racial characteristics"; that is, physical appearances, such as blond hair and blue eyes, indicating that the child might have some "Nordic" blood or might make a good German. Racial examiners of RuSHA performed these examinations to determine whether the child was of good or inferior blood.

Himmler, in a speech to Party comrades, outlined his aims. He said:

"* * * Closely linked to this problem 'children and people' for this coming and now shaping great empire which has recently been much enlarged by the addition of the Eastern territories and which gradually becomes an empire of Germanic greatness which has been created for us by the Fuehrer; linked to this problem is now a second problem, that is my task as Reich Commissioner for Strengthening of Germanism. Here,

too, this task is one which deals with the question, how we can add to the victory of the sword the victory of the blood, of the blood of our kind. How will the organization be carried out, after the victory over the enemy, the real Germanization of the land, how will the real occupation of the new provinces from the racial point of view be carried out. I have received orders to carry out this task on October 7th, from the Fuehrer, as Reich Commissioner for Strengthening of Germanism.

"We must see to it that at least in the Provinces which belong to Germany now, the problem of a Polish minority is liquidated and eliminated, the problem must be liquidated.

"We have to see to it that now, in these days when we are strong, people who are of our blood will be brought back to us, as much as is in our power and that we see to it that none of our blood is ever lost to the outside world * * *. The manner in which this is to be achieved will be different every time. At the beginning it was necessary—and this, if you please, should not go beyond our small circle—to carry this out in a very ruthless fashion, especially in West Prussia, where the atrocities committed by the Poles were worst, and where German blood was heavily shed * * *. It is a matter of course that Germany will bring back ethnic Germans from all countries after the war, all people who are of ethnic-German good stock, I would even say, of good blood * * *."

Later, in a letter dated 18 June 1941, Himmler made his plan quite clear in unambiguous language when he said:

"I would consider it right if small children of Polish families who show especially good racial characteristics were apprehended and educated by us in special children's institutions and children's homes which must not be too large. The apprehension of the children would have to be explained with endangered health * * *."

"After half a year the genealogical tree and documents of descent of those children who prove to be acceptable should be procured. After altogether one year it should be considered to give such children as foster children to childless families of good race * * *."

In furtherance of Himmler's pernicious kidnaping plans, Greifelt lent his assistance by issuing "Regulation 67/I". This order was sent to numerous offices, including the Higher SS and Police Leaders, as deputies to the RKFDV, in the occupied territories and in Germany and RuSHA. The decree, which was immediately placed into operation and which resulted in many kidnapings, declared:

"In order to be able to regain for German folkdom those

children whose racial appearance indicates Nordic parents, it is necessary that the children, who are in former Polish orphanages and with Polish foster-parents, are subjected to a racial and psychological process of selection. These children, who are considered to be racially valuable to German Folkdom, shall be Germanized."

The decree further provided, in great detail, for the registration of the children, their racial examination by RuSHA, a medical examination, and their subsequent handling, stating in part:

"My representative at Poznan will report all children from 6 to 12 years of age who have been considered suitable for Germanization to the inspector of the German folk schools. The inspector of the German folk schools will accommodate these children in special folk schools which answer the children's needs. Those children, who leave the German folk schools with positive results, are to be lodged in rural homes of Germany proper.

"Special attention is to be given that the expression 'Polish children suitable for Germanization' may not reach the public to the detriment of the children. The children are rather to be designated as German orphans from the regained Eastern territories."

On 16 February 1942 Himmler issued a decree dealing extensively with the kidnaping of foreign children.

In part the decree states:

"Politically heavily incriminated persons will not be included in the resettlement action. Their names are also to be submitted by the Higher SS and Police Leaders (Inspectors of the Security Police and of the SD) to the competent State Police (Main) Office for the purpose of transfer to a concentration camp. The wives and children of such persons are to be resettled in Germany proper and included in the procedures for Germanization.

"If the wife too cannot be included in the resettlement action because she is politically badly incriminated, she too is to be named to the competent State Police (Main) Office for the purpose of transfer to a concentration camp. In such cases the children are to be separated from their parents * * *. Persons to be considered politically heavily incriminated are those who committed the most serious offenses against Germandom (for example, participation in persecution of Germans, economic destruction of racially pure Germans, among other things).

"The children are to be admitted to the local German public schools and included in the Hitler Youth. Attendance at a local school of higher education is prohibited. * * *

"The Higher SS and Police Leaders are to pay particular attention that the re-Germanization of the children does not suffer as the result of detrimental influence by the parents. Should such detrimental influence be determined to exist, and should it be impossible to eliminate them through coercive measures by the State Police, accommodations are to be found for the children with families who are politically and ideologically above reproach and ready to take in the children as wards, without reservation and out of love for the good blood present in the children and to treat them as their own children. The same thing is applicable to children who must be separated from their parents in accordance with paragraph II A 3 of this regulation.

"They are to take into protective custody persons in whose cases the Higher SS and Police Leader has ordered the revocation of nationalization, and to transfer them to a concentration camp."

Ten copies of this decree were sent, for information, to the Staff Main Office.

A graphic example of the kidnaping of foreign children and the procedure followed are contained in correspondence covering a period of more than a year, concerning a number of persons. This correspondence occurred between Himmler's office, RuSHA, VoMi, and the Staff Main Office. After a decision had been made to perform a racial examination on the subjects of the correspondence and the examination had been conducted by RuSHA, Himmler reached the following decision in a memorandum marked "Secret" and sent to VoMi, RuSHA, and the Staff Main Office:

"1. Maria Lambucki and Stanislaw Koch are not to continue to remain in protective custody.

"2. Jachwiga Koch is to be assigned to a German folk school.

"3. Brunhilde Muszynski is to be taken into protective custody. Her two children, aged 4 and 7 years, are to be sterilized and lodged somewhere with foster parents.

"4. Ingeborg von Avenarius is also to be taken into protective custody. Her children too are to be lodged somewhere with foster parents, after sterilization."

Speaking at Bad Schachen in October 1943, Himmler reiterated his policy of kidnaping children in the following language:

"I consider that in dealing with members of a foreign country, especially some Slav nationality, we must not start from German points of view and we must not endow these people with decent German thoughts and logical conclusions of which they are not capable, but we must take them as they really are.

“Obviously in such a mixture of peoples there will always be some racially good types. Therefore I think that it is our duty to take their children with us, to remove them from their environment, if necessary by robbing or stealing them * * *. Either we win over any good blood that we can use for ourselves and give it a place in our people or * * * we destroy this blood.”

The defendant Creutz, who was deputy to Greifelt, was also involved in the kidnaping of foreign children. Even before Greifelt issued his decree “67/I” in 1942, Creutz in writing to Reich Governors declared:

“There are a great number of children in former Polish orphanages who, on account of their racial characteristics, must be considered to be children of Nordic parents. These children * * * must be subjected to a racial and psychological selection procedure. Children found to be biologically valuable for the Germanism are to be Germanized.”

In this correspondence Creutz further gave detailed suggestions and instructions as to the procedure to be followed in the Germanization of the foreign children.

The evidence establishes beyond all doubt that Creutz issued instructions for the carrying out of a “children’s operation”, which meant the bringing of children into Germany for Germanization; and for this activity, as a part of the Germanization program, he bears full responsibility.

RuSHA actively participated in the kidnaping of alien children. To this organization was delegated the task of making racial examinations and, upon the basis of these examinations and racial evaluations, many children were wrested from their parents and relatives and sent to Germany. These examiners were working directly at different intervals under the control and supervision of Hofmann and Hildebrandt respectively, who had knowledge of their activities; and for the participation of RuSHA in this program, both these defendants bear full responsibility.

Hofmann, as chief of RuSHA, and Hildebrandt, who later became chief of RuSHA, knew as early as the summer of 1941 the details of the proposed program. Both defendants were sent a copy of the letter from Himmler, to which we have already adverted, in which he said he would consider it right if small children of Polish families, who show good racial characteristics, were apprehended and educated by the Reich.

Further proof of Hofmann’s knowledge and participation in the bringing of children into Germany for Germanization is contained in a file note sent to Hofmann concerning two Russian boys who had been deported to Berlin and were being cared for by RuSHA.

On 12 February 1942 Hofmann, in a memorandum concerning actions to be taken against foreigners who made difficulties, said:

"At another occasion, SS Gruppenfuehrer Greifelt was ordered to submit a directive according to which Germanizable Poles, who make special difficulties, are to have their children taken away from them. These children are to be sent to special homes, etc. The Reich Leader expects an especially educating effect from this measure."

The defendant Schwalm participated in the kidnaping program as is shown by several exhibits.

In January 1941, Schwalm became chief of the Staff Office at Lodz and remained in that position until September 1941. Also, in January 1941, he became chief of the RuSHA agencies in the EWZ at Lodz. He had authority over racial examiners who were constantly engaged in making examinations and evaluations of children. There is evidence in the record showing that Schwalm, while chief of the branch office at Lodz, trained racial examiners; and the evidence irrefutably shows that Schwalm, in this position, was the person who had the power to change racial decisions.

At a meeting of the offices for race and settlement, attended by Schwalm, and at which time he was appointed chief of the RuSHA agencies in the EWZ at Lodz, the following illuminating decision was made:

"Oberfuehrer Kaaserer then said that, by an order of the SS Personnel Main Office effective 1 December 1940, he was transferred as chief of the Ancestry Research Office of the Main Office SS for Race and Settlement and, therefore, as chief of the office for Race and Settlement would resign from the Central Office for Immigration on 15 January 1941. SS Sturmbannfuehrer Schwalm was appointed his successor. * * * The racial sentence once passed on a resettler by an expert may not be altered by any office. The judgment of an expert is an expert diagnosis just like that of a physician. Only Sturmbannfuehrer Schwalm, in his capacity as chief of the Offices for Race and Settlement, has the power to alter a judgment after a thorough investigation which is best done by looking over the resettler personally. * * *"

Schwalm's activities and participation in kidnaping is established beyond doubt by a number of reports signed by him concerning transports. Writing with reference to the 288th transport, 239th transport, 340th transport and 432d transport "of families and individuals to be re-Germanized," Schwalm gives a long list of persons transported, as well as the date and place of birth of the individuals; and in quite a number of instances the reports show that young boys and girls unaccompanied by family mem-

bers were being transported. Girls of 15 years of age were shipped and there were quite a number of 18 and 19 year old girls.

The participation of VoMi in the kidnaping of foreign children is clearly established by a number of exhibits from various officials of VoMi concerning the disposition of relatives of Slovenes who had been executed. Typical of these memorandums is the following from the VoMi office in Berlin to the VoMi office in Bayreuth: "Subject: Relatives of the bandits executed in Lower Styria—resettler's child, Albin Wipotnik, born 26 June 1937, at present in Camp Kastl near Bamberg. Released to family Zozej at Geislingen." This letter states:

"In conclusion of the above matter, I wish to notify you, that the resettler's child Albin Wipotnik may be released.

"I request that you state the above file number on the release certificate, which is to be forwarded to this office, and that you make a full report to me, since I have to contact the Lebensborn yet."

Knowledge on the part of both Lorenz and Brueckner, and their participation in kidnaping activities, is established by a teletype message signed by the defendant Brueckner in which he urgently requested information as to the number of children separated from their parents. He said:

"Regarding separation from their parents of children whose ethnic characteristics are in jeopardy, the decision of the Reich Leader SS was announced by the letter from this office dated 28 August 1942 and it was ordered that lists of such children and orphans are to be submitted to this office for forwarding to the Reich Leader SS. Despite a reminder, no report has been made. As the Reich Leader SS repeatedly demanded the report from SS Obergruppenfuehrer Lorenz, I expect at once information by teletype as to when lists will arrive here."

Many children were concentrated in VoMi camps outside of Germany, separated from their parents in many instances, and usually they were finally transferred to VoMi camps in Germany. These children, who unquestionably had been forcibly taken from their parents, were subjected to racial examinations in VoMi camps, and then disposed of according to racial evaluations. The evidence indisputably establishes that these incidents occurred particularly in regard to Yugoslav children and also in Czechoslovakia. It is quite clear that both Lorenz and Brueckner are inculpated in crimes connected with the kidnaping of foreign children.

ABORTIONS ON EASTERN WORKERS

The policy of abortions on Eastern workers began in 1943, and had its basis in a decree issued by Himmler in March 1943, which provided:

“* * * that in those cases where pregnancy is caused by sexual intercourse between a member of the SS or the police and a non-German woman residing in the occupied Eastern territories, an interruption of pregnancy is to be carried out positively by the competent physician of the SS or the police, unless that woman is of good stock, which is to be ascertained in advance in every case.

“The Russian physicians or the Russian Medical Association, which must not be informed of this order, are to be told in individual cases that the pregnancy is being interrupted for reasons of social distress. It must be explained in such a way that no conclusions to the existence of a definite order may be drawn.”

Following the Himmler decree on abortions, Dr. Kaltenbrunner [chief of RSHA], from the office of the RKFDV, issued detailed instructions on the subject of abortions, stating:

“In cooperation with the offices concerned, the Reich Health Leader has decreed in his Order No. 4/43, dated 11 March 1943, that in the case of Eastern female workers, pregnancy may be interrupted if the pregnant woman so desires * * *.

“The consent for abortion of Eastern female workers on the part of the offices of the Reich Commissioner for the Strengthening of Germanism is valid herewith as retroactively granted in the cases in which the father was a man of foreign race (not Germanic). In these cases, the office for expert opinion will, therefore, not obtain the consent of the Higher SS and Police Leader as Deputy of the Reich Commissioner for the Strengthening of Germanism, but may order the abortion on its own authority.

“Obtaining the consent of the Higher SS and Police Leader as Deputy of the Reich Commissioner for the Strengthening of Germanism is, according to this, necessary only in the cases in which it is maintained or is probable that the father was a German or a member of an ethnically related (Germanic) race.

“The Higher SS and Police Leader will then be informed of those cases. * * *”

The decree then provided for the taking of personal histories and racial examinations by the RuS Leader, and further provided:

“* * * If it is found by this racial examination that a racially

valuable result is to be expected, then the consent for abortion is to be denied. If on the basis of the racial examination the offspring is expected not to be racially valuable, the consent for abortion is to be granted.

“The racial examination is to be carried out rapidly. Further directives concerning the carrying out of the racial examination and the treatment of the cases in which the consent for abortion is to be denied are issued by the Reich Leader SS and Chief of the German Police, or by the RuS Main Office SS.”

It appears from the evidence that basic decrees and memorandums on the question of abortion were principally issued by offices and defendants other than those here involved, with the exception of RuSHA. That RuSHA participated in the abortion program is clearly shown. The role played by RuSHA was principally in conducting racial examinations of the pregnant worker as well as the suspected father to determine whether a racially inferior or satisfactory child might be expected; and upon the basis of this examination it was determined whether an abortion should or could be performed—orders being to the effect that no abortion could be performed where a child of good racial characteristics might be expected, and that an abortion should be performed where such a child was improbable. Upon these racial examinations depended also the future treatment of a child in those cases where a pregnancy interruption was not practicable because pregnancy was in too far an advanced stage at the time of the examination. In the event the racial examiner determined that a racially inferior offspring was to be expected, the child was assigned to a “foreign children’s home”, which meant that it would be reared under adverse conditions without the benefit of the normal necessities of life and culture, while in the event the racial examiner found that a racially suitable child might be expected, such a decision meant that the child would be subjected to Germanism through adoption by foster parents.

That a child evaluated as of good racial characteristics would be wrested from its mother and subjected to Germanization is clearly shown in a letter from Himmler’s office to RuSHA in which it is stated:

“The reception into the care of the NSV or of Lebensborn of the child of good racial stock will necessitate in most cases its separation from the mother who remains at her working place. Particularly for this reason the reception into that care of the child of good racial stock is only possible with the mother’s consent. She has to be made to consent to it through interpretations by the caretaking office which set forth the advantages but not the ends of this procedure. * * *”

While it may be noticed that this letter states that such a child can be taken from its mother only by her consent, the letter proceeds to state that the mother "has to be made to consent." Of course, through no stretch of the imagination can the forced agreement of a slave laborer in the Reich, working under the conditions to which these laborers were subjected, be termed a "consent".

The role of RuSHA in the abortion program was principally carried out, so far as basic directives are concerned, by the defendants Hofmann and Hildebrandt. On 13 August 1943, Hildebrandt wrote concerning abortions:

"I should like to emphasize especially that the necessity for the racial examination, which take place upon the suggestion of the SS Race and Settlement Main Office, also applies here.

"The directives for the RuS field leaders' decision in the racial examination are the same as the ones laid down by me through the ordinance of 13 August 1943 to be applied in decisions about applications for pregnancy interruption for Eastern female workers.

"All files of cases in which the RuS field leader refuses the pregnancy interruption are to be submitted to the Race and Settlement Main Office together with photographs and addresses of their relatives, so that they may be examined in the light of inclusion into the re-Germanization program."

And 10 days later, Hildebrandt, in a memorandum marked "Secret", stated:

"Enclosed find the Order of the Reich Leader SS and Chief of the German Police of 27 July 1943 which has been issued in agreement with the Race and Resettlement Main Office for your compliance.

"The carrying out and the decision on the treatment of the pregnant women, as well as of the expected children, is the responsibility of the SS Leader for Racial and Resettlement matters. The regulations issued by me, in regard to the decisions on applications for interruption of pregnancy, also correspondingly apply to the decisions of the SS Leaders for Racial and Resettlement matters. * * *

"Naturally the opinion of the SS Leader for Racial and Resettlement matters is the decisive one in the judgment. * * *

"Though I have already done so in the regulations on the decisions on the interruption of pregnancies, I want to point out once more the grave responsibility which has been assigned to the SS Leaders for Racial and Resettlement matters by this new order, i.e., to especially further all valuable racial

strains for the strengthening of our people, and to accomplish a complete elimination of everything racially inferior.”

The desired result of this systematic program of abortions was (a) to keep the Eastern laborers available as slave labor; and (b) to hamper and reduce the reproduction of the population of the Eastern nations.

Since one of the main defenses to this specific charge is the contention that abortions were performed in all cases only on a voluntary basis, by the express consent of the women involved, we quote another document which clearly refutes this contention:

“It is known that racially inferior offspring of Eastern workers and Poles is to be avoided if at all possible. Although pregnancy interruptions ought to be carried out on a voluntary basis only, pressure is to be applied in each of these cases. * * *”

TAKING AWAY INFANTS OF EASTERN WORKERS

Closely linked to the program of abortions was that of stealing children born to Eastern workers. Notwithstanding the abortion program, it often happened that a case of pregnancy was not discovered until it was too late to perform an abortion or the child was born before pregnancy was actually discovered. Therefore, the Nazis conceived it to be necessary to deal with this situation. They solved it by simply, in many cases, stealing the child and sending the mother back to labor for the Reich.

The procedure of taking away infants of Eastern workers is clearly outlined in a decree issued by Kaltenbrunner on 27 July 1943. This decree, among other things, provided:

“Relative to the question of the treatment of pregnant foreign women and the children born in the Reich by foreign working women, I give the following directives in accordance with the respective central offices which, on their part, will give corresponding instructions to their subordinate offices:

‘After giving birth the foreign working women have to resume work as soon as possible according to the instructions of the Plenipotentiary for the assignment of labor. * * *’

“The children born by the foreign working women may in no case be attended by German institutions, be taken into German children’s homes, or else be reared and educated together with German children. Therefore, special infant-attendance institutions of the simplest kind—so-called ‘foreigners’ children’s nursing homes—have been erected within the billets where these children of foreigners are attended to by female members of the respective nationality. Foreign population is

emphasized by the human sacrifices in the war. It is therefore important that the children of foreigners who, partly, are of a similar race and bearers of German blood and may therefore be considered as valuable are not assigned to the 'foreigners' children's nursing home according to figure 3 (not reproduced), but, if possible, they are to be saved for the German nationality and to be educated as German children.

"For this reason an examination of the racial characteristics of the father and mother has to be carried out in cases where the father of a foreigner's child is of German or of kindred race (Germanic). * * *"

The decree then provides for racial examinations by RuSHA, and further states:

"In cases where on the basis of the racial examination and of the expert opinion as to the health stock both of the father and the pregnant woman racially good descendants can be expected, the children, in order to assure their education as German children, will be put in the care of the National Socialist Public Welfare Association (NSV) which will place them in special children's homes for foreigners' children of good racial stock or in private families. Should the examination prove negative then the children will be treated according to figure 3 (not reproduced).

"The Higher SS and Police Leader is to submit as quickly as possible—

"To the Youth Offices the result of the racial examination, respectively the decision on all cases reported by them. In cases of a positive result of the racial examination the summons has to be added to bring about the appointment of a guardian at the appropriate time.

"In cases of a positive result of the racial examination, to the competent Gau office of the NSV moreover the summons to have the child of the foreign woman adopted at the appropriate time under the care of the NSV for children of good racial stock. * * *

"The reception into the care of the NSV or of Lebensborn of the child of good racial stock will necessitate in most cases its separation from the mother who remains at her working place. Particularly for this reason the reception into that care of the child of good racial stock is only possible with the mother's consent. She has to be made to consent to it through interpretations by the caretaking office which is set forth the advantages but not the ends of this procedure. * * *"

A copy of this decree went to RuSHA.

RuSHA's role in the procedure for taking infants from East-

ern workers was similar to that in the case of abortions. RuSHA's evaluation of the racial value of the child determined the fate of the child. The fate of those determined to be of racial value is plainly stated in a memorandum to Himmler, suggesting the disposition of these children:

“* * * Polish women and Eastern female workers should, in every case of pregnancy, be examined by the Race and Settlement Main Office. Their children, if they are proved to be of good race, should be handed over to the institutions of the NSV.

“If the pregnancy of an alien female worker has been caused by a German man, normally no procurement of abortion is necessary, but an investigation of the racial purity of the mother and the father will be conducted by plenipotentiaries of the Race and Settlement Main Office. The alien woman will be re-allocated to labor after the birth. All children proved to be racially pure will be sent to the children's institutes, which are to be established for those children who are to be educated as Germans. The approval of the mother is only required if the mother is a national of an independent state. Children of impure race (schlechtrassisch) would be handed over to children assembly centers, in order to prevent German children growing up together with foreign children, and to make the mother available for labor allocation. Children assembly centers, which would be managed by members of foreign nations, could be set up in almost every village and without exception in every alien camp. * * *”

Himmler agreed to the suggestions made, but in the case of foreign children, he considered “it proper to introduce a pompous sounding designation for the assembly centers for foreign children.”

The fate of those found not to be of racial value, and accordingly sent to foreign children's homes, is disclosed in a report of investigation of such a home. This report, which was made directly to Himmler, discloses that:

“* * * This home was founded some time ago for a trial period on the basis of your correspondence of 9 October 1942 with Gauleiter Eigruber. On the basis of the order you gave then SS Oberfuehrer Langoth founded the home.

“During this visit I found that all of the babies located in this home were undernourished. As I was told by SS Oberfuehrer Langoth only ½ liter milk and 1½ cubes of sugar per baby per day are furnished to the home on the basis of a decision of the Land Food Office. With this ration the babies must perish from undernourishment in a few months. I was in-

formed that this agreement exists concerning the raising of these babies. * * *

"I have already asked SS Oberfuehrer Langoth to inform Gauleiter Eigruber of this condition and to ask him to assure sufficient nourishment of these babies until your opinion is obtained. I consider the manner in which this matter is treated at present as impossible.

"There exists only one way or the other. Either one does not wish that these children remain alive—then one should not let them starve to death slowly and take away so many liters of milk from the general food supply; there are means by which this can be accomplished without torture and pain. Or one intends to raise these children in order to utilize them later on as labor. In this case they must be fed in such a manner that they will be fully usable as workers. * * *"

A decree emanating from Himmler's office, and previously quoted, shows that an Eastern worker was unable to resist the forcible taking of her child, and it was decreed that although, in the case of racially valuable children, the child could not be taken without the consent of the mother, in the same breath the decree voices the mandate that "she has to be made to consent".

The defendant Hofmann, as chief of RuSHA, was fully conversant with this atrocious program. He was sent copies of suggestions adopted by Himmler, as well as Himmler's decision to introduce a pompous sounding name for assembly centers for foreign children. Not only did he have knowledge, but he issued instructions, which coincided exactly with Himmler's ideas and views. On 24 March 1944, in a letter of instructions marked "Secret" dealing with the "treatment of the pregnant foreign working women and of children born of foreign female workers in the Reich", he said, "If the evaluations indicate that the children are good from the viewpoint of race and hereditary health, they are transferred to the care of the NSV in children's homes for foreign children or in private families. In negative cases children are sent to institutions for foreign children". There can be no doubt Hofmann actively participated in this criminal program.

Hildebrandt, who succeeded Hofmann as chief of RuSHA, is equally guilty with Hofmann in this specific charge. On 25 August 1943, Hildebrandt sent to all RuS leaders Kaltenbrunner's decree of 27 July 1943 giving basic instructions on the treatment of children born to foreign workers. In an accompanying letter dealing with the subject, "treatment of pregnant foreign workers and of children born in the Reich to foreign female workers", Hildebrandt emphatically issued instructions, and stated in part:

“Naturally the opinion of the SS Leaders for Racial and Resettlement matters is the decisive one in the judgment. * * * I want to point out once more the grave responsibility which has been assigned to the SS Leaders for Race and Resettlement matters by this new order, that is, to especially further all valuable racial strains for the strengthening of our people and to accomplish a complete elimination of everything racially inferior.”

The prosecution seeks to attach responsibility for the taking of infants from foreign workers on Lebensborn and the defendants connected with that institution. In this respect, the prosecution rests its case upon the ground that in two memoranda or decrees issued by various persons and offices it was mentioned that children of good blood should be placed with Lebensborn. The defense asserted emphatically that Himmler rescinded this part of the decree and no children of foreign workers were actually taken into Lebensborn.

As to this defense, the prosecution strongly contended that the defense was absurd and untenable, stating that “Himmler’s sole purpose in creating Lebensborn was to obtain ‘blood’ for the Third Reich”.

We think the position of the defense is not only tenable, but correct for three reasons.

1. The prosecution introduced numerous exhibits in which it was stated that children of good racial blood would be transferred to NSV homes and those of foreign blood to foreigners’ children’s homes. Either these decrees are absolutely erroneous or those mentioning transfer to Lebensborn are erroneous;

2. The prosecution has failed to show that a single child of a foreign worker was ever transferred to Lebensborn;

3. Although the decrees mentioning Lebensborn were sent to a number of offices and individuals, according to the distribution list Lebensborn was not included on the list.

For these reasons we exonerate Lebensborn and the defendants connected therewith in connection with this phase of the charges lodged against the named defendants.

The defendants connected with VoMi were not charged with this specific crime; and as to the defendants connected with the Staff Main Office, the evidence was insufficient to implicate any of them in this criminal activity.

PUNISHMENT FOR SEXUAL INTERCOURSE WITH GERMANS

During the war hundreds of thousands of workers from foreign countries, particularly from the East, were brought into Germany as forced laborers in factories and agriculture. With

this advent of foreigners there naturally followed incidents of sexual intercourse between the foreigners and Germans. The Nazis, in order to meet this situation, began the issuance of numerous decrees concerning the treatment of foreigners who had sexual intercourse with Germans. Foreign nationals, particularly from the East, including Poles, Czechs, and Russians, were subject to these decrees (both civilians and prisoners of war).

As early as 3 July 1940 Pancke, then chief of RuSHA, sent a report to the office of Bormann, assistant to Hess, suggesting the issuance of laws to protect German blood. Pancke said:

“At present there are hundreds of thousands of prisoners in Germany of all nationalities and degrees, partly in camps, but for the most part, however, as workers.

“* * * The dangers of intermixing and bastardizing of our people are extraordinarily grave. They lie to a great extent in the almost unlimited lack of knowledge throughout our nations of the problems of blood.”

Following Pancke's suggestion, the Reich Security Main Office, known as RSHA, and under Himmler, began dealing with the problem by promulgating decrees which provided that in the event a foreigner had sexual intercourse with a German woman, he should be arrested and examined by a racial examiner of RuSHA. Upon the basis of this examination depended the treatment accorded the foreigner. Those determined to be racially inferior were subject to “special treatment” or a concentration camp; those found to be racially valuable were subject to Germanization. In order that the term “special treatment” might not be misunderstood, we quote from a decree issued by RSHA:

“Special treatment is hanging. * * *

“Sexual intercourse is forbidden to the manpower of the original Soviet Russian territory.

“For every case of sexual intercourse with German countrymen or women, special treatment is to be requested for male manpower from the original Soviet Russian territory, transfer to a concentration camp for female manpower.

“When exercising sexual intercourse with other foreign workers, the conduct of the manpower from the original Soviet Russian territory is to be punished as severe violation of discipline with transfer to a concentration camp.

“The intercourse between other foreign workers employed in the Reich and the manpower from the original Soviet Russian territory also brings great dangers to be dealt with by the security police, therefore, it should also be fought with measures against the foreign workers. * * *”

The principal participants in carrying out measures relating

to this charge were Himmler's organization, RSHA, which issued decrees and had the final decision on punishment after racial examination, and RuSHA, which made the racial examination and evaluation upon which depended to a large extent whether the offender should die or receive a lighter punishment.

That RuSHA was an active participant in these measures cannot be denied, for practically every decree or piece of correspondence concerning this subject either originated in the office of RuSHA or was sent to that office, or else the correspondence or decrees mentioned RuSHA's role in the matter.

We need quote but a few documents to show the close connection RuSHA had with this program.

On 14 September 1942, a letter originating from the office of RuSHA while Hofmann was chief of that office, stated:

"It is requested that in all special treatment cases where German women have become pregnant by men of alien races, the offenders be racially examined without delay.

"The Reich Security Main Office has instructed its branch office to present these cases immediately to the Commissioner of the SS Race and Settlement Main Office."

In a report sent to Hofmann in October 1942, we find the following:

"The order given by the Reich Leader of the SS on the special treatment of Poles is extended to the Czechs too. The Reich Security Main Office continues to complain that a quicker decision must be reached concerning suitability for Germanization. It proposes a short course of instruction for all the heads of the State Police Regional Offices and afterwards the inauguration through these of a system of rough racial selection of the civilian workers suggested for special treatment. On account of principal considerations this consent to the Reich Security Main Office had to be refused. It then remains for us, however, on the other hand to guarantee that the examination process will be speeded up. Once more reference must be made to the regular submission of the expert opinions to the Higher SS and Police Leaders. * * *"

Hofmann's complete familiarity with and participation in this program is shown by instructions he himself issued while Higher SS and Police Leader, after he left RuSHA. He said:

"With regard to illicit sexual intercourse of laborers of foreign stock the following ordinances are in force:

"All serious offenses such as assault and sexual offenses and sexual intercourse with German women and girls are to be reported at once to the Security Service (Security Police); as a matter of principle the department of justice will not be

contacted in the beginning. As a rule both parties will be arrested.

"After being investigated as to his nationality the party of foreign race is subject to a racial evaluation by the competent RuS field leader; a potential suitability toward Germanization is to be explored.

"When a case of sexual intercourse is detected, the Amtsarzt (official physician) has to ascertain whether the participating German woman is pregnant. It is to be stated how far the pregnancy is advanced and whether another and what person beside the one of foreign stock in question might have fathered the prospective child (this investigation to be made by the Youth Office). If the person of foreign stock is fit for Germanization and if both parties are evaluated favorably under the racial viewpoint, marriage is possible under certain conditions, however, marriage between laborers from Serbia, or other Eastern laborers, and German girls are not permitted for the time being. A female worker of foreign stock, caused by the German man (in abuse of his position) to submit to sexual intercourse, will be taken into protective custody for a brief period, thereafter assigned to a different job. In other cases the female worker of foreign race is to be confined to a concentration camp for women. Pregnant women are to be sent to a concentration camp only after they have given birth and stilled the baby."

In 1943 Hildebrandt succeeded Hofmann as chief of RuSHA. The measures with reference to punishment of foreigners for sexual intercourse continued thereafter. During the time Hildebrandt was chief, two copies of Kaltenbrunner's decree of 10 February 1944 were sent to RuSHA. This decree, marked "secret", was a ten-page detailed order covering the procedure in cases involving foreigners who had had sexual intercourse with Germans. With reference to "special treatment" the decree states:

"Especially acts of sabotage, crimes of violence, and immoral crimes as well as sexual intercourse with German women and girls are to be considered as severe offenses.

"On principle, the cases will not be handed over to Justice. Only those cases are to be transmitted there, where a court sentence appears to be desirable for reasons of political disposition of the public and where it has been ascertained by previous sounding that the court will pass the death sentence * * *.

"Carrying out the special treatment shall serve especially to intimidate the foreign workers inside the Reich, this, however, will only be completely achieved if the expiation follows

the deed at once. Therefore the inquiries have to be completed immediately. It must be made possible for the reports to be submitted to RSHA in the case of B I, 4 days at the latest, B II, 2 months at the latest, B III, 3 weeks at the latest after the event. These offices which are involved in the process, are to be informed of this fact."

Hildebrandt, while on the witness stand, first denied that he comprehended the meaning of the term "special treatment", but later admitted that he knew that in the case of "special treatment" hanging might result.

Hildebrandt's familiarity with "special treatment" procedure is clearly shown in one of his own orders. On 31 March 1944, he appointed Dr. Turner as a deputy with powers to act in his absence. This appointment, according to the order, was made because Hildebrandt's assignment in the East would last a little while longer. In the order of appointment, Hildebrandt said:

"As before, I reserve the right to make long-range decisions as well as decisions of a fundamental nature. However, I again expressly decree that the official channel to me leads only via my deputy.

"Petitions for engagement and marriage permits and special treatment cases for submission to the Reich Leader SS are from 1 March 1944 to be submitted every week to SS Gruppenfuehrer Dr. Turner, when in Berlin, for dispatching to the Reich Leader SS, or to the Reich Security Main Office. When SS Gruppenfuehrer Dr. Turner is absent from Berlin, the chiefs of the marriage office and the race office retain the right of signature as ordered in point 5 of letter of 16 December 1943."

Thus, not only did Hildebrandt have familiarity with the term "special treatment", but he, and those deputized by him and under his express orders, actually handled special treatment cases.

HAMPERING THE REPRODUCTION OF ENEMY NATIONALS

Preliminary to a discussion of a specific charge now dealt with, we might mention the German People's List, known as the DVL procedure, which played an important part in measures taken to hamper the production of enemy nationals, as well as many other Germanization measures. The DVL procedure will be further dealt with later; but for present purposes we point out only that under this existing procedure Polish citizens, and later other foreign nationals, were divided into four groups, numbered 1, 2, 3, and 4. According to the decrees establishing the DVL procedure, and

according to Nazi conception, group 1 included so-called ethnic Germans who had taken an active part in the struggle for Germanization of Poland; group 2 included those ethnic Germans who had "preserved" their German characteristics, though they had not taken an active part in the national struggle; group 3 comprised persons of alleged German stock who had become "Polonized", but who it was believed could be won back to Germanism, and also persons of non-German descent married to Germans and members of non-Polish groups who were considered desirable so far as their political attitude and racial characteristics were concerned; group 4 comprised persons of German stock who had become politically merged with Polonism.

Upon registration in the German People's List, persons listed in groups 1 and 2 automatically became German citizens; those listed in group 3 acquired German citizenship subject to revocation; those listed in group 4 received revocable German citizenship through naturalization proceedings.

Persons ineligible for the German People's List and residing within the incorporated territories were considered ineligible for consideration as protectees, and were classified as stateless; those Poles residing in the Government General were classified as non-protectees.

As a part of the gigantic program of strengthening Germany while weakening, and ultimately destroying, enemy nations, measures were taken to hamper and impede the reproduction of enemy nationals. These took the form of various decrees, all aimed at one purpose—to greatly reduce the birth rate among enemy nationals and thereby gradually bring about the destruction of the entire national group. These decrees were mainly directed toward drastically curtailing marriages. They were aimed at all Polish groups, protectees and nonprotectees, as well as all groups of the German People's List.

By a decree dated 25 April 1943, protectees were allowed to marry among themselves unless restrictive measures should later be imposed. Such restrictions were imposed by Himmler, by raising the marriageable age to 28 for men and 25 for women. According to the decree of 25 April 1943, protectees and nonprotectees were prohibited to marry each other, except that the RKFDV had the power to grant exemptions. Such exemptions were permissible, for instance, to "enable a protectee who is particularly valuable for racial and other reasons to marry a German, in order to gain him over to the German ethnic community." And in the case of a male protectee such exemptions depended on his becoming naturalized or Germanized in order that the German woman should retain her German nationality.

Decree 12/C, issued by Himmler on 9 February 1942, provided that marriages and adoptions by the persons classified in group 3 of the German People's List with each other or with Germans was permissible but further provided that restrictive regulations might be issued by the Staff Main Office. The decree further provided that persons in group 3 were prohibited to marry persons in group 4, persons of alien race, or with Germans holding citizenship subject to revocation who were not classified in group 3. There were further restrictions on persons of group 3 prohibiting marriages to an enumerated group of persons, such as civil service employees, without a special license.

On 6 August 1944 in a memorandum issued by the Prague Office of RuSHA, it was stated that persons of Polish descent and persons of Ukrainian descent were to be prevented from marrying each other "as a matter of principle," because "experience has shown that such marriages do not tend to split up, but rather to camouflage the Polish factor; thus the children of these marriages usually are brought up as Poles."

Notwithstanding the many decrees enacted to hamper reproduction, the Nazis suddenly awakened to the realization that their measures, as occurred in other cases, were not bringing forth the desired results, and in the words of the Nazis, as shown by the report of a conference on the question, attended by the defendant Brueckner of VoMi and representatives of RuSHA, it was discovered that "because of the raising of the marriage age for Poles the number of legitimate children is reduced resulting in an increase of the number of illegitimate children. The information memorandum recently obtained showed that the number of illegitimate children is increasing to an even greater extent than the number of legitimate children is decreasing."

The conference met this problem in the following manner:

"With regard to the question of reducing the number of illegitimate children, it was the general consensus of opinion to allow the unwed Polish mothers a minimum subsistence for the care of the child, the subsistence to be paid for by the Polish fathers and to be paid out only if the care of the child is not assured by either the unwed mother or her family. This was to prevent any negligence. Here it must be the primary principle not to spend one German penny for Polish welfare. This method of putting the illegitimate, racially undesirable Polish child at a definite disadvantage, even though it will not, in general, reduce the number of illegitimate children, will at least not encourage a rise in the number of illegitimate children. The Race and Settlement Main Office suggested that the father of the illegitimate child be required to make es-

pecially large payments, but that the money become part of a general fund from which the necessary sums might then be paid out. In cases where the paternity cannot be established, all potential fathers will be equally liable to payment. This measure is not likely to increase the pleasure of having an illegitimate child; all surplus money might be turned over to German youth welfare. * * *

Even further and more far-reaching measures were thought necessary as is clearly shown by an exhaustive file note, initialed by the defendant Brueckner in his own handwriting, as well as a "strictly confidential" memorandum to Brueckner. Both memorandums are in essence the same, dealing with the same subject. The file note dealt with the subject, "Immediate Reich measures to decrease the dangers from infiltration in view of the numerous births of alien races in rural areas." After discussing the high percentage of births to alien women working on farms in Germany, the file note, with reference to emergency measures, mentioned the following:

"Comprehensive sterilization of such men and women of alien blood in German agriculture who, on the basis of our race laws—to be applied even more strictly in these cases—have been declared inferior with regard to their physical, spiritual and character traits.

"A ruthless but skillful propaganda among farm workers of alien blood, to the effect that neither they nor their children, produced on the soil of the German people, could expect much good, in other words immediate separation between parents and children, eventually complete estrangement; sterilization of children afflicted with hereditary disease. * * *

"A quiet distribution of contraceptives among farm workers of alien blood.

"General and strictest compliance with the principle of taking away for good from their mothers all new born children of female farm workers of alien blood as well as children of German women if the father is of alien race, at the latest 4 weeks after their birth, and then sending them to geographically remote homes."

According to the report these measures were considered to be necessary because "to leave the children with the mother of alien blood for a prolonged period would mean a continued and increased bother to the German farm wife; and even the German housewife and members of her family" might become attached to the child. Also "it must be constantly on the mind of the female farm worker of alien blood that to give birth to a child in Germany would mean to lose it at the same time."

The memorandum further disclosed that "homes for alien children" were to be established, to which a child was to be sent upon separation from its mother, and that one such home had already been established and in operation.

Though we have not exhausted the subject, we think the facts outlined give a sufficiently clear picture of the extent of the program inaugurated to hamper the reproduction of enemy nationals.

The offices of RuSHA, VoMi, and the Staff Main Office bear particular responsibility for this criminal activity. Representatives of RuSHA and VoMi actively engaged in discussions and made suggestions concerning measures to be enacted. These representatives demanded, and received, the right for determination of individual cases by Higher SS and Police Leaders, which would result in a decisive intervention on the part of RKFDV. It was further agreed that in deciding cases it should be determined whether the child constituted a "desirable increase in population (Poles suitable for Germanization); this will then be determined by the SS Race and Settlement Main Office."

The Staff Main Office prepared decrees concerning marriages. Greifelt under his own signature, forwarded decree 12/C, dealing with the question of prohibiting marriages; and representatives of the Staff Main Office participated actively in conferences in which drastic regulations were discussed and agreed upon. The defendant Greifelt bears full responsibility for the activities of the Staff Main Office, as well as his own individual acts, which contributed in a large measure toward the program of hampering the reproduction of enemy nationals.

The defendant Lorenz, as chief of VoMi, and the defendant Brueckner, as chief of Amt VI (safeguarding of German folkdom in the Reich, which was an office of VoMi) are also responsible for the atrocious crimes committed in the furtherance of this program. Being an office which dealt primarily with ethnic questions, VoMi naturally was drawn into this program, for it was peculiarly within VoMi's field of activity. We have already shown quite clearly that Brueckner was active and energetic in conferences and decisions. His chief is responsible for his acts.

In preliminary conferences leading to the issuance of decrees, RuSHA, while Hofmann was chief, had an active representative present. Afterwards, when Hildebrandt became chief of RuSHA, Klinger, acting "for the chief of the SS Race and Settlement Main Office," issued decree after decree, on the basis of existing decrees, outlining prohibitive measures to be followed in carrying out the program.

Hofmann and Hildebrandt had full knowledge of all the details of this program and willingly assisted in its execution. Practically

all correspondence and the various decrees issued outside the RuSHA office went directly to RuSHA; and by the decrees it was provided that RuSHA should play an important part in measures to be taken; for instance, it was expressly provided that RuSHA should examine those coming within the prohibitive marriage decrees. And as the evidence shows, RuSHA with determination guarded its right to make these examinations. Since both Hildebrandt and Hofmann were chiefs of RuSHA while these measures were being enacted and carried into effect, they both bear responsibility for the criminal acts committed against the populations of occupied territories.

FORCED EVACUATIONS AND RESETTLEMENT OF POPULATIONS; FORCED GERMANIZATION OF ENEMY NATIONALS; SLAVE LABOR

Within the framework of the gigantic program undertaken by Himmler and offices subordinated to his command, three aims were paramount: To evacuate and resettle large areas of the conquered territories; to Germanize masses of the population of the conquered territories; and to utilize other masses of the population as slave labor within the Reich. These aims, and the procedures and measures adopted to carry them out, are so interwoven and interrelated that one can hardly be mentioned without at the same time referring to the others. Accordingly, these specifications of the indictment will be considered and discussed together.

In the execution of the Germanization program, the measures taken in regard to these three specifications of the indictment utilized, as a basis of operation, the DVL procedure, already discussed in this judgment, or the WED procedure.

In making examinations for the purpose of resettlement of so-called ethnic Germans, the RuSHA racial examiners used the DVL procedure, dividing those considered acceptable in the German People's List into four groups, as already explained. In the case of resettlement of populations, the groups were further subdivided into "A", "O", and "S" cases. The evidence establishes that "O" cases were those determined to be racially and politically reliable; "A" cases were those who were determined to be less politically reliable but still of racial value; "S" cases were those found to be of alien blood and not racially valuable.

Generally, "O" cases (those politically and racially valuable) were transferred to the Incorporated Eastern Territories, it being assumed that such persons would aid in a speedier Germanization of that territory; "A" cases, being less reliable politically, were transferred to Germany proper, the idea being that these per-

sons could be indoctrinated with Germanism much faster in the environment of Germany and could be, from a security angle, under closer surveillance. The "S" cases, being in the conception of the Nazis of no racial value, were transferred to the dumping ground of the Government General or sent back to their native countries.

Of all the measures taken in the vast Germanization scheme, those connected with the forced deportation and evacuation of populations and the resettlement of other populations were perhaps the most far-reaching and in some respects the most cruel. These measures resulted in death, misery, and destitution to thousands upon thousands of the citizens of conquered nations. The scheme was simple in its framework, but cruel in its execution.

With the incorporation of the Eastern territories of Poland, evacuations and resettlements immediately began. According to the plan, all Poles and Jews living within the incorporated territories, except those considered fit for Germanization and registered on the German People's List, were to be evacuated to the Government General.

We have already cited many decrees which clearly establish the general plans for evacuation and resettlement. Numerous decrees and documents on this subject are contained in the record, but a reference to all these decrees and documents of various kinds would be impracticable. The evidence unquestionably establishes the aims and measures taken in the execution of this program.

Poland, being one of the first nations overrun by the Nazis, became the first nation to be affected by this program; and it was within the incorporated territories of Poland that evacuations and resettlements were carried out on the largest and most ruthless scale. However, before the end of the war, these measures had been extended to practically all conquered territories, encompassing, for instance, Yugoslavia (whose citizens were known as Slovenes) and French citizens of Luxembourg, Alsace, and Lorraine. While evacuations occurred principally in the countries named, resettlers came from many countries, including Russia, Poland, and Greece. Some were transferred by virtue of treaties entered into by Germany and the country concerned by the resettlement action; and with those resettlements, insofar as the removal of the resettlers is concerned, we need not deal. Hundreds of thousands were removed, however, from their native land, not by virtue of a treaty but simply by virtue of Germany's armed might as an occupying belligerent. Many of these resettlers were, according to irrefutable evidence, forced to sign the

DVL procedure, and were forced to leave their native lands. Intimidation and deceit in various forms were employed to force registration of the populations on the German People's List and after registration, to force the population to remain on the list. Typical of the measures taken in this coercion of the population was the threat of German authorities to take the children of those refusing to sign, and the actual taking of such children from their parents; the threat of placing persons refusing to sign in concentration camps, and the actual placing of such persons in concentration camps. Many of these resettlers were deceived into believing that they would find much better living conditions in the land to be resettled and would receive compensation in kind for property left behind; but, instead, they found themselves for months in VoMi camps, enduring hardships and living under very unfavorable conditions. Hundreds of thousands were never resettled, but remained in VoMi camps until the end of the war, and never received any compensation whatever for their property; and by the thousands others of these resettlers, instead of resettlement, were forced to work within the Reich in industry and agriculture.

Many of the resettlers, who had steadfastly refused to succumb to threats and deceit, were nevertheless placed on the German People's List without their knowledge and notwithstanding they had not applied to authorities to be placed on the list.

By January 1944, nearly three million Poles alone had been registered on the DVL procedure. Hundreds of thousands had been deported to the Government General or to the Reich to labor in factories, in agriculture, and other enterprises. These Poles had no choice, but their disposition was governed entirely by the whim of the conquerors. As Poles were deported, a corresponding number of resettlers were evacuated from their homeland and resettled on the Polish property left behind by those Poles who had been evacuated. These resettlement actions were so immense that many times it was necessary to await an evacuation of Polish citizens before the resettlers could be accommodated. And in addition to those hundreds of thousands going to the Incorporated Eastern Territories, other hundreds of thousands of resettlers went direct to the Reich as laborers. They, too, had no choice in the matter and were allocated to such jobs as those in authority desired to place them.

The enormity of the crimes committed in the evacuation and resettlement actions are shown by reports made by high German officials during the period when these actions were taking place. Shortly after Poland was conquered, the Commander in Chief East, in his own notes made for the purpose of reporting to the

commander in chief of the army, describes the chaotic conditions attending those evacuations as follows:

“The resettlement scheme is causing particular and steadily increasing alarm in the country. It is quite obvious that the starving population, struggling for its very existence can regard the wholly destitute masses of evacuees, who were torn from their homes over night, as it were, naked and hungry, and who are begging shelter from them, only with the greatest anxiety. It is only too understandable that these feelings are intensified to immense hatred by the numerous children starved to death on each transport and the train loads of people frozen to death * * *.”

Himmler himself, in a speech to Party comrades, acknowledged that in evacuations people froze to death on transport trains in the East, but he said: “I imagine that we have to be ruthless in our settlement, for these provinces must become Germanic, blond provinces of Germany.”

Frank, Governor General of Poland, made a lengthy report direct to Hitler on 25 May 1943, in which he described in detail the harsh treatment of the Poles and the conditions prevailing in the resettlement districts of Poland. This report, a copy of which went to Himmler, stated—

“* * * the newly settled area and, unfortunately, the nearer and even the farther surroundings, have for a long time been in a state of open rebellion.

“According to my own conviction, the reason for the complete destruction of public order is to be found exclusively in the fact that the expelled persons were in some cases given only 10 minutes, and in no case more than 2 hours, to scrape together their most necessary belongings to take with them. Men, women, children, and old people were brought into mass camps, frequently without any clothing or equipment; there they were sorted into groups of people fit for work, less fit for work, and unfit for work (especially children and aged persons), without regard to possible family ties. All connections between the members of families were thus severed, so that the fate of one group remained unknown to the other. It will be understood that these measures caused an indescribable panic among the population affected by the expulsion, and led to it that approximately half of the population, earmarked for expulsion, fled. They fled, in their despair, from the expulsion district and have thus contributed considerably to the increase of the groups of bandits which existed for some time in the Lublin district and which act with continuously increasing audacity and force. This movement has extended, like waves in a pond, also to the inhab-

itants of those rural districts which were not—in any case not yet—intended for expulsion. In the course of these events it has even happened that the newly settled ethnic Germans, forced by casualties inflicted on them by bandit actions, frequently banded together into armed troops and procured for themselves from the surrounding villages, with alien population, on their own initiative and by force of arms, the necessary implements for their farms.

“This chaotic situation was further aggravated by retaliatory measures by the constabulary in the Lublin district to forestall additional attacks on ethnic German villages. These retaliatory measures consisted, among other things, in mass-shootings of innocent persons, especially of women and children and also of aged persons, between the ages of 2 and 80 and over.

“* * * In connection with the execution of the resettlement plan described by me, the point of view has often been maintained that all humanitarian considerations must be completely neglected. May I give the assurance that I, too, share this view utterly and completely.”

It is established by the evidence, including the testimony of inmates of concentration camps, that persons who refused to sign the DVL procedure were incarcerated in these camps, and after their confinement were still subjected to coercion in an attempt to compel them to enroll on the German People's List.

There existed a close connection between resettlements and evacuations. Almost all correspondence and decrees concerning evacuations and resettlement actions discussed both subjects, and detailed measures to be taken in regard to both evacuation and resettlement. While at first there was not such a close connection in point of time, the Nazis, finding that to leave a farm unattended often resulted in thefts and loss of property left on the evacuated premises, adopted a procedure whereby the person to be evacuated was given only a few hours notice. He was permitted to carry away only a meager amount of personal possessions; and the evacuations took place only after resettlers were in a VoMi camp and in a position to move onto the evacuated premises immediately.

These evacuations were carried out without regard whatever to military necessity. While there were instances where property was confiscated for military purposes, in the great majority of cases, vast areas comprised of farms and various enterprises were evacuated for the sole purpose of ridding the Incorporated Eastern Territories of those persons the Nazis regarded as unsuitable and to make room for those persons the Nazis hoped would speedily make of the incorporated areas a Germanic stronghold.

In the gigantic undertaking comprising evacuations and resettle-

ments, Germanization, and commitment to slave labor of foreign nationals, the Staff Main Office, VoMi and RuSHA held significant roles. Greifelt, as chief of the Staff Main Office and also as deputy to Himmler, issued decree after decree concerning measures to be taken in the evacuation and resettlement of populations.

Greifelt's intimate connection with, and active participation in, evacuations and resettlements as well as Germanization and slave labor, affecting the populations of various countries, may be clearly shown by reference to several decrees.

On 7 July 1941, Greifelt issued a directive concerning "the evacuation from Southern Carinthia of elements of alien stock", in which it was directed:

"The Slovenian intelligence will be submitted to a racial examination. The racially valuable elements (groups 1 and 2) will not be evacuated to Serbia but will be transferred to Germany proper to be Germanized.

"The above change does not affect the ordinance to the effect that a sharp selection will be made from among the native population of Southern Carinthia and that the undesirable population must be evacuated in accordance with existing directives."

Greifelt, in writing Himmler on 22 September 1941 regarding the completion of racial examinations of inmates of Baltic refugee camps, reported that 70 percent were "fit for immediate labor service"; 28.5 percent were "foreign elements which should be brought back to their land of origin"; and 1.5 percent were "considered as politically incriminated or suspected or asocial, and as such to be handed to the Chief of the Security Police for commitment to a concentration camp."

In discussing the settlement of Lithuanian Germans, Greifelt in a report to Himmler on 19 November 1941 proposed—

"In order to be able to give the German peasants profitable holdings, the following is suggested:

"1. Resettlement of Lithuanian peasants in former German holdings in eastern Lithuania.

"2. Evacuation of Poles and resettlement of Lithuanians in the former Polish holdings.

"3. Immediate requisition of Polish, Russian, and Jewish property."

In an order dated 3 October 1942, marked "Secret", and concerning "the treatment of labor allocation of the persons evacuated from Alsace, Lorraine, and Luxembourg," Greifelt decreed—

"Evacuees who—

- a. express their wish to be sent to France,
- b. refuse to accept German citizenship,

c. show by gross insubordination other than the above that they feel as Frenchmen and intend to remain such,

d. for those reasons refuse to accept reasonably suitable work or housing,

are to be reported to the competent Gestapo Regional Hq. for deportation to a concentration camp or, in the case of racial inferiority, to be deported to France."

Creutz, deputy to Greifelt, was also active in resettlement and evacuation actions as well as the Germanization and commitment to slave labor of various foreign populations. Creutz issued instructions concerning these matters to various persons and made detailed reports direct to Himmler. On 30 July 1941, in reporting to Himmler on deportations from Lorraine, Creutz said:

"* * * it has become clear during the time following the conclusion of these evacuations that—

"1. further evacuations to France, although affecting only a smaller number of people are yet to be carried out (mainly priests and members of the intelligentsia);

"2. there still remain about 2,000 families which, although not suited for deportation to France, cannot remain in the Westmark, if we want to clear up the situation in that region.

"According to information from SS Gruppenfuehrer Berkelmann, these 2,000 families represent members of a variety of vocations, and are, generally speaking, entirely decent people, who, however, have to be removed from their present environment in order to win them back for Germanism at another place and to remove them from the current unfavorable influences."

The defendant Creutz, in correspondence direct with Himmler on 3 July 1942, requested permission to utilize a portion of the Government General for the resettlement of ethnic Germans; and on 10 October 1942, Creutz issued an order designating the district of Lublin as the area for resettlement of resettlers from Bulgaria, Serbia, and Leningrad. The order stated—

"Will you, please, immediately move the above mentioned resettlers into camp Lodz and put the necessary documents immediately at the disposal of the delegate of the Reich Commissioner for Strengthening of Germanism, Lublin Office."

Creutz, in other orders, also designated the district Lublin as the area of resettlement for resettlers coming from other countries.

Creutz' full knowledge of, and active participation in, deportation and resettlement actions is clearly shown by a report he made to Himmler's secretary on 7 August 1943. He reported in detail the exact number of persons settled in various districts, which

represented "a grand total of 546,000 resettlers." He reported that—

"* * * there are 55,500 resettlers in the camps of the repatriation office for ethnic Germans, of which 31,500 are O-cases, further 44,000 evacuees, together a total of 99,500. All are working temporarily in Germany proper with the exception of 22,000 who are in the camps in Lodz. Remaining capacity of camp another 40,000 persons."

A prolific source of labor for the Reich's war efforts was supplied by the re-Germanization or WED procedure. Notwithstanding, hundreds of thousands of foreign nationals were pouring into Germany by virtue of the DVL procedure, Himmler, in order to make use of those Poles not eligible for the DVL procedure, introduced the WED procedure. This procedure was somewhat similar to the DVL procedure, differing principally only in the fact that while the DVL procedure applied to so-called ethnic Germans, the WED procedure applied to those who were admittedly not of German descent but whose racial characteristics appeared to be satisfactory. The prime purpose of this procedure was to bring labor to Germany, at the same time depriving Poland of masses of its citizens and attempting to effect a forced Germanization of these foreign citizens.

On 9 May 1940 Himmler, in preliminary remarks to decree 17/II, the basic decree of the WED procedure, made his aim quite clear when he said:

"Among the people of alien (not German) nationality in the annexed Eastern districts as well as in the Government General there are often such who are eligible for Germanization on the basis of their racial suitability. I therefore ordered that a selection of the racially most valuable families of Nordic nature be made, according to directives issued by me, and I intend to put them into plants in the Old Reich. Since this is not a question of utilization of labor in the ordinary sense but an extremely important national-political task, the accommodation of this group of persons cannot be done in the usual way through the labor offices.

"For this reason I entrust the Higher SS and Police Leaders in their capacity as my deputies for the Strengthening of Germanism with this task of the distribution of people and at the same time with the utilization of this group of persons. * * *

"* * * it should be endeavored to accommodate able-bodied sons and daughters, who are not necessarily needed in the same plant, in other, more distant places."

Both Greifelt and Creutz actively participated in the slave labor program connected with the WED procedure. On 4 June 1941,

Greifelt, in a supplement to Himmler's decree 34/I, which extended the WED procedure to Southern Carinthia and Lower Styria, issued these specific instructions:

"The number of persons suitable for re-Germanization to be expected from Southern Carinthia and Lower Styria is not yet determined, but in the very near future if the transport difficulties can be overcome, an extensive number may be expected.

"Supplementing Decree No. 34/I, I therefore state: I ask that the competent Laender Labor Offices be contacted as well as the other offices participating according to the hitherto customary procedure. I attach the greatest importance to closest cooperation with the Party offices.

"All the labor locations which you have already selected and not yet filled will not be settled by persons from the former Polish territories suitable for re-Germanization, but by those from Southern Carinthia and Lower Styria.

"Once again I call attention to the fact that according to Decree No. 34/I for the allocation of the persons from Southern Carinthia and Lower Styria who are suitable for re-Germanization, the procedure already used for the persons from the Eastern territories capable of re-Germanization is to apply to the fullest extent. This additional group of people is to be treated in the same manner."

In an eight-page report, dated 25 March 1943, Creutz outlined the entire re-Germanization program, giving details as to the measures that had been taken. A few extracts from this report are sufficient to show Creutz' familiarity with the procedure and his participation therein:

"The selection of the persons is made by the branch office of the SS Race and Settlement Main Office, Litzmannstadt [Lodz].

"The persons found suitable for being Germanized will be turned over to the individual Higher SS and Police Leaders in Germany proper according to the plans to be drawn up by the Staff Main Office.

"The Higher SS and Police Leaders are competent for the selection of the work assignments. They are willing to consider proposals of other offices also (District Directorates, National Food Agricultural Estate, Labor Offices); the definite decision, however, is theirs exclusively.

"The families suitable for Germanization will, after their transfer to Germany proper, first be lodged for a short period in transit camps, which are subordinated to the Higher SS and Police Leaders. At these camps a thorough examination takes place in order to find out for what kind of the approved work assignments the individual families are best suited.

"Until 31 January 1943, 14,592 persons from the former Polish territories have been selected by the branch office of the SS Race and Settlement Main Office and were transferred into Germany proper.

"The Staff Main Office is not able to concur fully with the statements of the Reich Security Main Office regarding the willingness to be Germanized. According to experiences gained here, the willingness to be Germanized is lowest in such persons who came to the Reich as single individuals and whose families were left behind in the Eastern territories.

"A low degree of readiness to be re-Germanized also prevails in those who left behind larger properties.

"* * * it is emphasized that the care of the persons suitable for re-Germanization shall not degenerate into an exaggerated kind of welfare. It was also often necessary to discipline some obstinate persons in the harshest manner and to keep them in line through the use of compulsory measures.

"If there still exists, as is understandable, a lack of willingness for re-Germanization, it is nevertheless to be expected that the next generation, on account of its racial orientation, will have almost completely merged with Germanism. The care and education of juveniles is therefore considered the main task in the procedure of re-Germanization.

"On the basis of the decree 34/I of the Reich Fuehrer SS of 4 June 1941, 10,121 persons have been transferred to Germany proper until 31 January 1943, to work and live there.

"Approximately 6,500 Slovenes, which still are in camps, are at present available for allocation in the district of Lublin.

"According to reports of the Immigration Center, the Slovenes have an aversion against settlement in the district Lublin. They try to influence the Immigration Center by all means, so that they will not be declared worthy of settling in the East. Among the Slovenes already settled in Germany proper, a strong uneasiness can be observed also."

Greifelt, as the active directing force, and Creutz, acting by reason of Greifelt's directions, were instrumental in bringing into Germany young girls to be used as domestic workers in German households. Himmler, in a decree issued on 1 October 1941, had pronounced his purposes in this respect. He said:

"One of the greatest calamities is at present the shortage of female domestic help, especially in families with many children.

"I therefore order that girls of Polish and Ukrainian descent, who meet the requirements of the racial evaluation groups 1 and 2 shall be selected by the racial examiners of the Race and Settlement Main Office and shall be brought into the Reich

territory. The selection is not to be limited only to those persons who are to be evacuated but, as far as possible, to all available girls. In this connection not only the Warthegau but also the other Incorporated Eastern Territories, the General Government, and, after prior understanding is reached with locally competent offices, the former Esthonian, Latvian, and Lithuanian territories are to be considered.

“Assignments may only be made to households of families with many children who are firm in their ideology and fit for training such girls.”

The defendants Greifelt and Creutz assisted in fulfilling Himmler's ambitions, as is shown by the report of Creutz, a few months after the issuance of Himmler's decree. In reporting to Himmler on 20 February 1942, Creutz said:

“Regarding the status of the allocation of female domestic help eligible for re-Germanization I wish to report as follows:

“521 female domestics suitable for re-Germanization were allocated to nonfarming households until 31 December 1941 (total number of allocated persons including children, 10,520).

“The selection of the persons eligible for re-Germanization is made by the field office of the SS Race and Settlement Main Office in Litzmannstadt [Lodz]. The allocation in the Reich is carried out by the locally competent Higher SS and Police Leaders.

“The field office of the SS Race and Settlement Main Office makes its selections primarily from among the evacuated Poles. In addition, pursuant to the personal order of the Reich Leader SS, it has the responsibility of removing qualified female domestics, eligible for re-Germanization, from the re-Incorporated Eastern territories (especially from the Warthegau), and of transferring them to the Reich proper. It receives the names of girls in the Warthegau through my deputy. Furthermore, it contacted the local employment offices and welfare offices in the allocation of the girls.”

Subsequently, less than a year later, Creutz reported to Himmler that the total number of re-Germanizable domestics and agricultural workers was 6,818, of which 1,127 were allocated to urban households. The number of persons suitable for re-Germanization allocated to the Reich up to 30 November 1942 was estimated at 26,000 in a memorandum by Greifelt dated 12 December 1942 and addressed to Higher SS and Police Leaders.

RuSHA held a prominent role in the adoption and enforcement of measures taken to evacuate and resettle foreign populations, Germanize enemy nationals, and utilize enemy nationals as slave labor. In all three of these closely connected procedures, RuSHA

was the organization charged with, and upon which depended, the selection and evaluation of so-called ethnic Germans and foreigners. Upon the decision of RuSHA depended the future treatment of the persons examined.

We have already detailed the mass resettlement actions from numerous countries and the mass deportations of Poles and Jews from the Incorporated Eastern Territories, as well as the forcible evacuations by the tens of thousands from Yugoslavia and Luxembourg, Alsace, and Lorraine. In all these actions RuSHA was involved, the duties of that office varying in accordance with the action being taken in each instance; but in all cases the fundamental role of RuSHA was to racially examine and classify the persons involved in the various actions.

In the case of resettlement actions, the resettlers, after being removed from their native lands by VoMi and transferred to VoMi camps, were examined and classified by racial examiners; and on the basis of "A", "O", or "S" classifications, some resettlers were allowed to resettle in the Eastern territories, some were taken to Germany as laborers, and some were sent direct to the Government General.

RuSHA's responsibility for examinations and evaluations in this connection is clearly outlined in a draft of instructions for the Immigration Center where the resettlers were assembled and screened. The instructions provided:

"The Race and Settlement Office (RuS) determines the racial suitability of the resettler according to general directions by the Reich Leader SS. The results are listed in a card index. This race and settlement card index is also centrally stored in Lodz and is consulted when determining the final settlement."

RuSHA's responsibility also extended to the Government General. The procedure followed and the ultimate results of racial examinations in connection with the expulsion of Poles from the Government General is described in a report made directly to Himmler by Mueller on 31 October 1942. This "secret" report from a Gestapo office concerning evacuations from the Lublin district stated:

"The Polish families classified in groups 1 and 2 will be separated and taken to Lodz for Germanization or screening. In as far as no settlers are available at present, a small group of these families will be retained to be settled on the so-called 'Z-farms' which are to be formed by combining larger and smaller Polish farms.

"Of those classified in groups 3 and 4 the children together with the Poles above the age of 60 will be segregated, i.e., as a rule children together with grandparents, and will be taken to

the so-called 'pensioneers villages'. Sick and infirm Poles under the age of 60 who are unable to work will also be taken to the 'pensioneers villages'. The age limit for children should be fixed at 14 years of age (not 10 years) since children under the age of 14 cannot be taken to Germany proper to work there. The able-bodied members of group 3 between the ages of 14 and 60 years of age without their disabled family members will be taken to the Reich as laborers.

"Individuals in group 4 between the ages of 14 and 60 are to be sent to concentration camp Auschwitz."

All three of the defendants connected with RuSHA—Hofmann, Hildebrandt, and Schwalm—lent their assistance and active support to measures formulated and carried out in connection with the three specifications of the indictment being considered.

Hofmann was informed by RKFVDV as early as 10 January 1941 of proposed evacuation actions in Poland. In a letter to Hofmann from the RKFVDV, after a description of certain evacuation actions, it was stated:

"* * * in the near future a particularly large number of evacuations will be carried through, also in the Warthegau, Danzig-West Prussia and Upper Silesia. I request that there, too, the racial examination should be made sure."

Hofmann complied with this request. On 21 January 1941, Hofmann answered:

"Please be informed that during my stay in Lodz, on 20 January 1941, I discussed and established with SS Sturmbannfuehrer Schwalm, chief of the branch office, the employment of racial examiners for the racial examination of those Poles who will be evacuated. SS Sturmbannfuehrer Schwalm will remain in contact, personally and through representatives, with SS Obergruppenfuehrer Krueger or with the authoritative agencies in the Government General as far as the start of the action is concerned."

In writing concerning the status of Dongus, chief of the branch office of RuSHA in Lodz, Hofmann outlined the activities of RuSHA in Poland. He said:

"From the beginning of 1941, SS Hauptsturmfuehrer Dongus has been directing the branch office of the Race and Settlement Main Office in Lodz. The branch office was commissioned to select from the new Reichsgaue [Reich districts] the Polish families which were racially most valuable from among the Poles being evacuated. This commission was in the meantime extended to the area of the entire Government General. On the instructions of the Reich Leader SS Reich Commissioner for Strengthening of Germanism, this selection process has to be

carried out with particular care. To carry out this work, therefore, I must have at my disposal a man who has the necessary knowledge in the fields of anthropology and psychology. In the case of Dongus we have in addition a man who has considerable experience and practice. Dongus' qualifications make it possible for me to appoint him, over and above his commission, as instructor and trainer for the new specialists in the sphere of anthropology.

"I beg you to consider that, through the work of the branch office at Lodz, most valuable families are gained by the Reich; at the moment they can be employed as acceptable labor forces, and their children, as can be seen even today, are growing up in the youth organizations as valuable blood of Germandom."

Hofmann, in a letter to RuS field leaders and "all racial examiners" emphasizes the importance of racial examinations being made by examiners from the RuS office. He declared:

"The racial evaluation made by the branch office Lodz of the SS Race and Settlement Main Office is binding in every case. The reversion of a decision made by the branch office can only be executed upon an order of the SS Race and Settlement Main Office. Grievance cases can be decided on by the chief of the SS Race and Settlement Office only after detailed facts have been submitted."

Continuing with a report about racial examinations made by racial examiners from a replacement office, which had "turned out to be completely unsuitable," Hofmann said:

"In this connection it is to be considered that the branch office has part of the persons which are to be re-Germanized at the camp Lodz under observation for weeks and that the racial selection can be made from naked persons. The racial examiner—as in the above-mentioned case—is only able to see these persons for a short time. Moreover, it is possible that he may see only parts of a family, but never the whole family, as it is the case in Lodz."

A lengthy report and survey made in the main office of RuSHA on 31 July 1942 and forwarded to Hofmann for transmission to Himmler covers the entire field of RuSHA activities. This report gives complete figures on the number of persons undergoing Germanization as well as the nationality of such persons, such as Poles and Slovenes. It also contains reports on deportations and the activities of RuSHA in that regard; it being stated that RuSHA had intervened with examinations to determine whether persons "represent a racially desirable increase in the population or the reverse." According to the report, those found racially valuable were to be settled in the Old Reich [Germany proper]; those

racially inferior were to be evicted to France. With reference to the commitment to labor in the Reich of those found fit, the report stated:

"The Reich Governor of Poznan, Department of Labor, and the Race and Settlement Field Leader Vietz-Danzig are striving in closest conjunction with the labor offices to bring about the necessary transfer of workers suitable for Germanization to the Old Reich.

"The Race and Settlement Main Office cannot shut its eyes to this necessity in view of the fact that it is the fourth year of the war and considering the problems of armaments and food confronting us in the Eastern sector too and has made the Staff Main Office corresponding promises."

Hildebrandt, after becoming chief of RuSHA, was informed of the deportations being conducted. On 8 December 1943, in writing in regard to planned deportations of students from the University of Strasbourg, a RuSHA field leader in France informed Hildebrandt:

"In the course of a larger action by the Security Police against the students of the former university of Strasbourg at Clermont-Ferrand, I examined there 107 male and female students along racial lines. It is well known that among the students there are many persons of German descent. Their political opinion, however, is in direct contrast to their descent. Thirty-seven percent of the students were classified as having biologically valuable characteristics, and it is intended to transfer them to the Reich * * *."

In actively directing racial examinations of French citizens, Hildebrandt ordered, in a letter to Higher SS and Police Leaders on 5 August 1943:

"All matters pertaining to resettled persons are to be handled centrally by the SS Race and Settlement Main Office.

"Insofar as the persons to be resettled have not yet been registered, they will be reported to the SS RuS Main Office by the Higher SS and Police Leader or by the Office for Ethnic Germans. The order to carry out the racial examination will be issued to the competent RuS field leaders by the SS RuS Main Office and the family cards to be used will be included. The results of the examination are to be forwarded to the SS RuS Main Office. It is not permissible to inform the offices of the Deputies of the Reich Commissioner for the Strengthening of Germanism of the results from there.

"The decisions will be made by the SS RuS Main Office, on the basis of the complete family evaluations, and the competent offices will be informed of them".

The evidence establishes that Schwalm, while chief of the branch office at Lodz, supervised racial examiners in that area, and Schwalm not only had full knowledge of the activities of his subordinates, but he himself was active in this field. We have already referred in this judgment to Schwalm's report in which he gave a complete list of persons being transported in a number of transports for Germanization from his area of command. Within Schwalm's jurisdiction examinations were carried out for the purpose of resettlement, evacuations, Germanization, and slave labor; and for the activity of his many subordinates, he bears full responsibility.

The organization VoMi was deeply involved in the forceful evacuation and resettlement of populations as well as the Germanization and commitment to slave labor of foreign nationals.

During the course of the war, hundreds of thousands of persons went through VoMi camps for various reasons. Documentary proof has already been quoted to give some idea of the vastness of the VoMi operations. It is disclosed by the evidence that VoMi actually operated some 1,500 to 1,800 camps; and at the end of the war there were still hundreds of thousands of persons confined within these camps. VoMi camps held resettlers, evacuees, and slave laborers.

Both Lorenz and Brueckner occupied high positions in VoMi and in the course of the immense VoMi operations became deeply involved in measures carried out under the Germanization program. Both defendants are responsible for a systematic and organized expulsion and evacuation of masses of the population throughout the invaded countries of Europe.

Immediately after his appointment as RKFDV, Himmler commissioned VoMi to carry out evacuations, resettlements, and the "whole ethnical work for the strengthening of Germanism." VoMi was charged with the "whole administration and care" of the VoMi camps.

Lorenz, from the date of the decree conferring such responsibility upon him and his organization, until the end of the war, was an energetic worker in the Germanization program; and he bitterly contested any encroachment by another organization upon activities Lorenz regarded to be within the realm of his duties.

Brueckner, likewise, was an energetic participant in the activities conducted by VoMi.

The evidence conclusively shows that VoMi was responsible for transporting thousands of resettlers and deported persons to VoMi camps; that these persons were subjected to the harshest kind of treatment and hardships; that they were herded into VoMi camps, several families assigned to one room, and for months forced to

live without adequate food and clothing. Within these camps some of those subjected to these hardships died.

The close connection between VoMi and expulsion and resettlement actions may be seen from the fact that Himmler, just four days after his appointment as RKFDV, issued an order on 11 October 1939 regarding resettlements in Poland, in which he stated that "a preliminary condition for the populating of these cities is the deportation of poles and the evacuation of their dwellings." Himmler then ordered:

"The selection of the population will be carried out by the Chief of the Security Police in collaboration with SS Obergruppenfuehrer Lorenz. A preliminary condition for repopulating these cities is the deportation of Poles and the evacuation of their dwellings.

"Members of the Polish Intelligentsia are to be deported in the first place."

From that time onward during the war, Lorenz, Brueckner, and VoMi were closely connected with all such undertakings.

On 10 December 1942 Lorenz reported to Himmler that 16,932 persons had been transported from Bosnia to VoMi camps. On 15 January 1943 Lorenz wrote the following letter to Himmler:

"Einsatzgruppe D reports that the North Caucasian territory had been cleared of ethnic Germans owing to military developments. Transport of ethnic Germans was channelled from Kur-savka to Yeisk where 2,000 ethnic Germans were scheduled to arrive on 9 January. Transport leader requested further directives. Suggested that Oberfuehrer Hoffmeyer should settle ethnic Germans in Halbstadt territory. Hoffmeyer acknowledges this possibility under the condition that the appropriate number of Ukrainians be evacuated. Request approval."

Himmler approved this plan and on 18 January 1943 Brueckner wrote the Higher SS and Police Leader in Russia-South:

"In consequence of a report to the effect that a transport of approximately 2,000 ethnic Germans from the Caucasus has arrived in Yeisk, SS Obergruppenfuehrer Lorenz suggested to the Reich Leader SS to settle these people in the Halbstadt region and to expel simultaneously a corresponding number of Ukrainians. The Reich Leader approved this suggestion. * * *"

Brueckner in writing to the Reich Minister for the occupied Eastern territories on 14 April 1943 said in regard to the competency of VoMi:

"The registration and the welfare of ethnic Germans within the Reich are matters falling exclusively within the competence of the Reich Leader SS in his capacity as Reich Commissioner for Strengthening of Germanism who has commissioned his

Main Office (Repatriation Office for Ethnic Germans) to carry out this program. In pursuance of this commission the Repatriation Office for Ethnic Germans registered the above mentioned group of people already. The welfare service is provided through our ethno-political agencies. The racial examination of ethnic Germans takes place in pursuance of the directives of the Reich Leader SS through the SS Race and Settlement Main Office.

"On this occasion it may be further pointed out that in the course of the discussion which took place some time ago in the Reich Ministry of the Interior, concerning the German People's List procedure, it was decided that the Repatriation Office for Ethnic Germans will have competence to report ethnic Germans from the Reich Commissariat of the Ukraine to the appropriate People's List Offices."

As previously stated, Lorenz jealously guarded his field of competency, which often led to disputes with those he thought were encroaching upon his duties. He even complained to Greifelt with reference to a jurisdictional dispute concerning labor allocation and the handling of resettlers; and he suggested to Greifelt that if Greifelt's office would desist from certain functions and leave them to his agency, he could bring in laborers to Germany by the tens of thousands. The text of this complaint reads:

"I am, of course, quite prepared to let your office in the future solely handle the labor allocation for the supply industries of the Luftwaffe, if you attach any importance to that matter; in that case, however, I wish to ask you even now to let my office complete the pending allocation operations.

"Yet apart from this, my dear Greifelt, there seems to me that something is wrong with the entire set-up of the labor allocation and I would ask you to give this matter some thought.

"Practically, the set-up is like this—the actual labor allocation, that is, the selection of the resettlers, the screening of the resettlers, the formation and execution of the transports, is handled by my camps, whereas your deputies tell my camp offices where the shipments are to go, or they negotiate in my camps with the companies concerned. This situation applies particularly to Lodz, and in this connection I may add the following remark: Your 5 deputies in Lodz were able to complete the allocation of only 500–600 resettlers within roughly 4 months, or to discharge them in order to join relatives. That is an output which certainly cannot have absorbed all of their time.

"The procedure in Germany proper is to report the "B" cases by name to the competent Higher SS and Police Leaders and to place them in camps made available by us, and only then to

have them allocated by the Higher SS and Police Leaders. This procedure might have had certain advantages during the last few years. Under the current conditions, however, when again many thousands of resettlers have come to the Reich it is, in my opinion, too clumsy to be practicable, not to speak of the immense paper work that it entails.

"The following, in my views, might be an expedient solution: Since today we can anyway no longer speak of a settlement according to plan, but are—if for no other reason than due to the housing shortage—concerned only with a temporary war-time placement of the resettlers to be handled still now, the allocation should be made directly by my office. From my subordinate offices, I know that in agriculture alone we could place tens of thousands of resettlers and at the same time this would be of immense importance from an ethnological viewpoint, since we thus could proceed with deportations in villages which today have an alien population of 60, 70, and 80 percent."

And still fighting for the right to handle and allocate workers, Lorenz wrote a bitter protest to the Higher SS and Police Leader in the Gau Upper and Lower Silesia. Within this area the Higher SS and Police Leader had ordered that every allocation for release of resettlers or evacuees should have his approval. In protesting this order, Lorenz said:

"Therefore, your purely local order must necessarily lead to confusion and uncertainty, especially since it does not take into account the thoroughly incorporated existing plan of procedure. For example, you also overlook the fact that the labor allocation of Slovenes not suitable for re-Germanization and other similar groups of evacuees is entirely my job. The fact that I am not dependent upon a single Gau in the allocation of these cases, but can execute relocation measures into other Gaus according to economic necessities, guarantees speedy completion of these labor allocation measures.

"I request of you, with respect to these facts, to retract the order issued by you on the 18th of this month. It is not in accordance with the Reich Leader's orders and therefore cannot be recognized by me. Furthermore, it leads to unnecessary difficulties which especially at the present moment must be termed undesirable.

"Since I am aware of the efficient cooperation between you and the local allocation headquarters of the repatriation office for ethnic Germans in Breslau, I am somewhat amazed how such an order ever came into being at all without my having been consulted. Therefore, I am returning to you your letter of 18 August of this year and request, contrary to the intentions

expressed therein, that in the future you give my local allocation headquarters the opportunity to carry out their duties on the basis of instructions issued to them by me without any difficulties."

The nature of the camps operated by VoMi may be seen from a drastic order issued to Lorenz by Himmler on 21 September 1942 after it had been reported to Himmler that Slovenes had escaped from the VoMi camps. Himmler decreed:

"The escape of a Slovene is to be reported immediately by the camp commander of the VoMi to the Gestapo. The Gestapo, in turn, will notify immediately the Higher SS and Police Leader Alpenland.

"The family of the escapee as well as his relatives will be removed immediately from the camp and be taken to a concentration camp. Their children will be taken away from them and sent to a home.

"At once investigation has to be made in the camp in order to determine who knew of the proposed escape and aided it. All men who knew about the escape and lent a helping hand will be hanged in the camp."

It has been established beyond any doubt by voluminous evidence that both Lorenz and Brueckner had knowledge of, and actively engaged in, actions carried out to evacuate and resettle foreign populations, to Germanize enemy nationals, and to utilize enemy nationals as slave labor within the Reich.

COMPULSORY CONSCRIPTION OF ENEMY NATIONALS INTO THE ARMED FORCES

Both Lorenz and Brueckner are charged under this specification of the indictment.

The evidence discloses that tens of thousands of foreign nationals, after registration in the DVL procedure, were conscripted into the Waffen SS or armed forces. There is an abundance of evidence, in the form of periodical reports, disclosing the extent to which foreign nationals were drafted for military service. For instance, in an information bulletin by RLD on 28 December 1943, the following information is given about the drafting of ethnic Germans for military service: *NO-2015, Pros. Ex. 341*.

"The first more extensive recruiting of ethnic Germans for the Waffen SS took place in Romania in 1940. This was done under the pretense of recruiting labor for the Reich. In a later, second action, a thousand men belonging to this ethnic German group in Romania were recruited. At that time these recruitments were not made for the purpose of strengthening the Ger-

man Army but with the idea, strongly backed by the Repatriation Office for Ethnic Germans (VoMi) and the present SS Obergruppenfuehrer Berger, that the participation of the ethnic Germans in the war within the ranks of the Waffen SS would cause a still closer union between these ethnic German groups and the German people and, especially after the war, in territories settled by ethnic Germans, led to the development of a veteran's generation like those in the German Reich.

"The political situation in the Serbian Banat made it possible, after the dissolution of the Yugoslav state, to collect the ethnic Germans living there into a unit, called the SS division "Prinz Eugen". Above and beyond this all further available men of the ethnic German group in the Banat fit for service were drafted into the police forces or served as temporary policemen in the Banat. Of the ethnic German group in the Banat and Serbia, counting approximately 150,000 ethnic Germans, 22,500 are serving in the aforementioned units, that is to say, more than 14 percent of this whole number."

This report gives a list, country by country, of the "allotment of German ethnic groups", enumerating the total number of persons in the Waffen SS and Wehrmacht. Typical of these listings are the following: Romania, "Waffen SS, 54,000"; Slovakia, "Waffen SS, 5,390"; "German Wehrmacht, 237".

The status of the aforementioned SS Division "Prinz Eugen", composed of ethnic Germans, is classified in a letter from Reinecke to the SS Main Office, dated 12 July 1943. Writing on the subject of "compulsory military service for racial Germans of foreign citizenship", the writer states:

"* * * the SS and police court in Belgrade reported e.g., on 14 August 1942 that the volunteer division "Prince Eugen" no longer was an organization of volunteers, that on the contrary, the ethnic Germans from the Serbian Banat were drafted to a large extent under threat of punishment by the local German leadership, and later by the replacement agency."

Order after order was issued in which it was expressly stated that those who were registered on the German People's List and who attempted to shirk military service should be severely punished. For instance, one order discussed cases which had arisen where such persons had claimed "Polish affiliation" when it was sought to induct them into the army; and in other cases persons in groups from 1 to 3 had tried, when it was sought to induct them into the army, to have their registration changed to group 4 in order to avoid military service. It was ordered that such persons should be transferred to a concentration camp.

Toward the end of the war more drastic measures were taken,

as is shown by a letter dated 20 September 1944 from the Higher SS and Police Leader Southeast to deputies of the RKFDV, in which it is stated:

"In the individual case of a member of group 3 who refused acceptance of the German People's List identification card in order to avoid being drafted into the army, the Reich Leader has decided that in this and similar cases firm action will have to be taken and has ordered the execution of the individual in question.

"If, in spite of having been properly instructed, persons enrolled in the German People's List should refuse acceptance of their German People's List identification cards a motion for special treatment will have to be submitted in future."

It is quite clear from the evidence that Lorenz was an active and willing participant in the forced conscription of enemy nationals. One document in the evidence discloses that he had suggested such conscriptions. Another document, from which we shall quote, should suffice to show his close connections and active participation in this matter. On 21 December 1942, in a report to the Assistant Secretary of the Foreign Office by Berger, head of the recruiting office of the Waffen SS, a lengthy account is given concerning the activity of Lorenz and others in the induction into the Waffen SS of members of "compulsory labor service of Croatia." It appears from this report that some dissension had arisen among officials with regard to this proposed induction, and it was finally decided "to postpone a decision about the labor service until SS Obergruppenfuehrer Lorenz visited Croatia." This report then continues:

"During this visit to Croatia SS Obergruppenfuehrer Lorenz informed the officer commanding the reserve command that he desired the induction of all the men of the labor service who were fit for the SS. One third of the leaders could join as well, otherwise, however, the labor service should be maintained as arranged. SS Obergruppenfuehrer Lorenz made an identical statement to the racial German leaders as Minister Kasche himself states in a teletype message of 7 November 1942. SS Obergruppenfuehrer Lorenz stated furthermore that he would inform Minister Kasche of the state of affairs."

According to further details of the report, a transport was supposed to leave on 5 November 1942 with inductees, but difficulties arose when the German labor service and the German legation failed to give their approval to the release of the laborers. Thereupon, according to the report, the following occurred:

"SS Obersturmfuehrer Heermann told SS Standartenfuehrer Ruschka that troop trains for the transportation of the labor

service men, who had been drafted into the Waffen SS, had already arrived, and that the transport escort troops had already been assigned. Since the minister himself had proposed that the decision about the induction of the labor service men should be left to SS Obergruppenfuehrer Lorenz, and since the latter had decided that the men had to join, he, SS Obersturmfuehrer Heermann, was obliged to regard it as sabotage if the draft orders were withdrawn by command of the legation one day prior to the scheduled departure of the transport trains, particularly as the orders had been submitted as early as a fortnight beforehand * * *."

Thus, Lorenz' activity, not only by way of consent but by way of direction, in the compulsory induction of foreign nationals is made quite clear.

The thousands of foreigners inducted into the armed forces of Germany came principally from VoMi camps which were under the supervision of Lorenz. By his activities in forcibly inducting these foreigners under his jurisdiction and supervision, he forced foreign nationals to fight against their own country and their own allies. He bears full responsibility for these deeds.

While Brueckner is shown by the evidence to have at one time submitted a draft of an order, under the terms of which "auxiliaries" under certain circumstances were to be inducted into the army, the evidence fails to disclose that the proposed order was ever adopted or carried out. No other evidence of an incriminating nature has been offered against the defendant Brueckner with regard to this specification of the indictment. We find the evidence insufficient to prove Brueckner guilty on this specification.

PLUNDER OF PUBLIC AND PRIVATE PROPERTY

As country after country was overrun by the Nazis, the plunder of public and private property was carried out on an immense scale in practically every conquered territory. The plunder seized consisted of various objects—from cultural property, such as paintings, carpets, and crystal, to agricultural property consisting of millions of acres of land.

Greifelt, as deputy to Himmler, was deeply involved in the plunder and confiscation of this property. He issued decrees directing that confiscations be carried out; and after confiscations had taken place, he refused to return the property to those from whom it had been confiscated. He was directly involved in the confiscation of many churches, hospitals, and sanitoriums as well as agricultural property. These confiscations were not carried out by reason of military necessity, but mainly were a part of a preconceived plan

to strip the Polish population of the Eastern territories of all their property and in turn to make the property available to resettlers.

Greifelt made periodic reports to Himmler in which he gave detailed accounts of the stages reached in resettlements and confiscation of property. Some conception of the extent of these confiscations may be gained from a report made by Greifelt to Himmler as early as 3 August 1942. Following page after page of statistics, the report reveals that in four Eastern Gaue [districts] alone the total number of confiscated farms and estates amounted to 626,642, with a total area of 5,849,987 hectares. Roughly, the land confiscated consisted of more than 14,000,000 acres.

None of the land confiscated was ever paid for; and although it is claimed in defense to these confiscations that it was intended to pay for these properties after the war, it is quite plain from the evidence that no such intention existed, for in reporting in a memorandum on a conference held with Hitler on 12 May 1943, Greifelt stated:

“The Reich Leader SS has pointed out that the property in question in the Incorporated Eastern Territories was formerly German property which was robbed in 1918 and for which no one can demand compensation. On the other hand, the situation in the Government General is different since the Poles there are still owners of their property. In so far as this property will be utilized for German resettlement measures, one could, therefore, consider a compensation for the previous owner.”

With regard to property confiscated from Jewish owners, no compensation at all was contemplated, as is disclosed by a memorandum by Greifelt, written in December 1942, which he sent to Himmler's secretary. This memorandum revealed that “the Reich Leader SS had signed a general directive whereby the entire Jewish real estate is to be placed at the disposal of the Office for Strengthening of Germanism.”

We have previously shown in this judgment that in reporting to Himmler, Greifelt recommended the “immediate requisition of Polish, Russian, and Jewish property.” Greifelt, on other occasions, voiced his opinion that requisitions should take place. For instance, on 23 February 1941, he wrote Himmler:

“After having issued your carrying-out decree concerning the treatment of the population in the Eastern occupied countries of 12.9.1940, you will find it necessary to issue instructions concerning the treatment of the property belonging to persons included in groups 3 and 4 of the ‘List for the Repatriation of German ethnic groups’ and this for the agricultural as well as for the trade sections.

“In the interest of Germanizing the country as fast and as

effectively as possible and of separating from both these groups their property located in the occupied Eastern territories as soon as feasible, my office is of the opinion that real estate situated in the annexed Eastern areas, and belonging to members of groups 3 and 4 of the list should be expropriated * * *.

"My office proposes to expropriate the property of these persons under the law concerning the treatment of property belonging to nationals of the former Polish State * * *."

While in that correspondence Greifelt further voiced the opinion that in the case of group 3 compensation should be paid, and in the case of group 4 partial compensation should be paid, this procedure was never followed; and, as we have shown, future measures adopted explicitly provided that no compensation at all should be paid for confiscated property.

As early as 4 October 1940, Greifelt expressly ordered the confiscation of property. In an order to the Central Land Office he declared:

"I wish to inform you that real property of people of Polish citizenship but who belong to other ethnic groups is on principle subject to requisition and confiscation in pursuance of the provisions of the decree concerning the handling of property of citizens of the former Polish State. This applies particularly to real estate of owners belonging to the Czechoslovakian, Russian, and Lithuanian ethnic groups.

"I request that the land offices be instructed accordingly and that the necessary action be taken."

Confiscation of property was carried out in such a ruthless and indiscriminate manner that it caused the Reich Minister of Justice to enter a protest against the extent of confiscation of Polish property. In a letter direct to Himmler on 22 May 1942, the Reich Minister of Justice complained that a sudden action had taken place whereby all live and dead stock belonging to former owners of Polish property had suddenly been seized. He reported:

"During the execution of this order, of which neither the Gauleiter nor the Landrat of the Kreis Bielitz had any knowledge as it was probably initiated by the decision of the head of the Gau Office Strengthening of Germanism, the Poles were robbed not only of their technical appliances but also of their food and personal articles and clothes.

"The Polish inhabitant who has been left practically without means after the extent of the confiscation has become very agitated, which might result in further expressions of hate and acts of sabotage against Germans. The action will also have bad effects as far as nutrition policies are concerned."

Greifelt answered the complaint of the Reich Minister of Justice

on 8 July 1942, and he sought to justify such seizures with these remarks:

“Since these Poles began to steal the fodder for their animals after they had lost their agriculture enterprises, and furthermore because the resettlers were in want of the missing live and dead stock which belonged to the farms, it became necessary for economic reasons to confiscate this stock and to return it to the now German farms to which it belonged.”

The confiscation of property with which Greifelt dealt extended to both public and private property. In a “secret” report to Himmler on 21 October 1943, Greifelt, in opposing a loan plan which had been suggested by the Reich Minister of Finance, stated:

“The plan will endanger the execution of plans repeatedly outlined by the Reich Leader SS in conversations with the undersigned. In these plans it was foreseen to utilize the entire amount of confiscated former Polish landed property in the Incorporated Eastern Territories, including as far as possible municipal and industrial property under the administration of the Main Trustee Office “Ost”, as separate property of the Reich Commissioner in order to make the financing of subsequent settlement tasks in the new territories at least in part independent of the Reich finances * * *.”

Greifelt further opposed this plan because certain aspects of the plan would reveal to the world the secret aim of the Nazis to confiscate all Polish property, and would make useless an ordinance previously issued for the purpose of camouflaging the aim of the Nazis in regard to Polish property. Greifelt reminded Himmler that—

“On the basis of this figure it would be possible for everybody in foreign countries to calculate that the entire Polish house property without exceptions has been confiscated. The reasons for hesitation dictated by international law and foreign policy, which in 1940 were conclusive for formulating the ordinance concerning Polish property in such a way that it could not be realized by any uninitiated person that actually all Polish property was supposed to be confiscated, would thus be thrown overboard.”

For the ruthless and indiscriminate confiscation of property without regard whatever to military necessity Greifelt bears full responsibility.

The evidence on this specification of the indictment is insufficient to prove the guilt of the other defendants connected with the Staff Main Office.

VoMi was directly connected with the plunder and confiscation of property for the evidence unquestionably shows that many con-

fications were carried out for the very purpose of using the confiscated property for the housing of resettlers. These confiscations particularly occurred with reference to church property and hospitals and sanitoriums.

The defendant Lorenz, as chief of VoMi, confiscated property for use of VoMi, and he was opposed to the return of confiscated property to its original owner, the church.

Greifelt, in a letter to Himmler dated 17 December 1940, gives the following account of VoMi's activities with reference to the confiscation of property:

"Realizing the impossibility of providing temporary housing accommodation for the resettlers by normal lawful means, the Office for the Repatriation of Racial Germans was empowered by an authorization issued by the Reich Leader on 30 December 1939 to requisition lodging space suitable for the communal housing of racial German resettlers.

"On the strength of this authority the Office for the Repatriation of Racial Germans has requisitioned a large number of inns, hospitals, sanatoriums, old people's homes, and especially convents. To a large extent this requisitioning was done with full collaboration of the minor administrative authorities."

In June 1943 Lorenz wrote Brandt, Himmler's secretary, concerning an inspection of certain camps, and in giving reasons for the full maintenance of the camp apparatus although the camps were only partly occupied, Lorenz said:

"* * * Another reason for the maintenance of the camps * * * is the following:

"The buildings confiscated there for the accommodation of resettlers mainly come from former church property. An unrestricted surrender of this property to the Wehrmacht, the National Socialist Public Welfare organization, etc., undoubtedly would result in this property gradually returning to the hands of the previous clerical owners. In order to prevent such a development which is undesirable to the Reich Leader SS, I have, so far, persistently opposed the surrender of these camps."

The evidence has clearly established the responsibility of Lorenz for the plunder and confiscation of public and private property belonging to enemy nationals without regard to military necessity; and for these acts Lorenz is criminally responsible.

On this specification of the indictment the evidence is inadequate to prove guilt on the part of the defendant Brueckner. Though he might have had knowledge of confiscations it has not been proved beyond reasonable doubt that he actually was connected in any manner with confiscations.

On this specification of the indictment, the evidence is insuf-

ficient to prove the guilt of any of the defendants connected with RuSHA.

The four defendants connected with Lebensborn—Sollmann, Ebner, Tesch, and Viermetz—are charged under this specification of the indictment. While it appears from the evidence that Lebensborn utilized certain property formerly belonging to Jews, such as several hospitals, old people's homes, and children's homes, it further appears that these properties had already been confiscated by other agencies and were empty at the time Lebensborn took them over. Furthermore, it appears that Sollmann, as chief of Lebensborn, deposited one million Reichsmarks of Lebensborn's funds for the purpose of paying for these properties upon transfer. Although the evidence discloses that no compensation was actually paid for these properties, this occurred by reason of an order of the Reich Minister of Justice suspending land registration entries, and not by virtue of any refusal to pay on the part of Lebensborn. While there is evidence to the effect that in isolated instances Lebensborn also utilized a small amount of personal property for the welfare and maintenance of children under Lebensborn's care, it has not been established beyond a reasonable doubt that Lebensborn actually confiscated such property without payment; nor has it been established that any defendant connected with Lebensborn was connected with any plan or program to plunder occupied territories.

The burden of proof rests upon the prosecution; and the evidence by which it is sought to criminally implicate the defendants connected with Lebensborn is, in the opinion of the Tribunal, insufficient to justify a conclusion of guilt on this specification.

PERSECUTION AND EXTERMINATION OF THE JEWS

Insofar as the evidence might connect the individual defendants with this charge in the indictment, this specification has heretofore been dealt with, particularly under specifications relating to punishment for sexual intercourse with Germans, plunder of public and private property, and evacuations of foreign nationals.

Persecutions upon racial grounds were directed particularly toward the Poles and Jews, and both the Poles and Jews were the victims of similar measures, as we have heretofore shown in this judgment.

WAR CRIMES AND CRIMES AGAINST HUMANITY

Judged by any standard of proof, the record in this case clearly establishes crimes against humanity and war crimes, substantially as alleged in the indictment under counts one and two.

The acts and conduct, as set forth in this judgment, and as substantially charged in the indictment, constitute crimes against humanity as defined in Article II (c) of the Control Council Law No. 10, and are violative of international conventions, and particularly of Articles 23, 45, 46, 47, 52, 55, and 56 of the Hague Regulations (1907), and are violative of the general principles of criminal law as derived from the criminal laws of all civilized nations and of the internal penal laws of the countries in which such crimes were committed.

The acts and conduct set forth in this judgment, and as substantially alleged in the indictment, also constitute war crimes, as defined in Article II (b) of Control Council Law No. 10, and are violative of international conventions, and particularly of Articles 23, 45, 46, 47, 52, 55, and 56 of the Hague Regulations (1907), and are violative of the general principles of criminal law as derived from the criminal laws of all civilized nations and of the internal penal laws of the countries in which such crimes were committed.

During the course of the trial defenses common to all defendants have been urged.

It has been insisted repeatedly by the defendants that numerous activities were not within their sphere of competency but on the contrary some other person or some other organization was charged with the performance of these various tasks. We have given careful consideration to these assertions, and in instances we have determined that certain assertions of this nature were creditable; and in such instances the defendant has not been held responsible for those activities. However, a complete and irrefutable answer to many of these assertions is found in the words of the defendants themselves in many orders, directives, and memoranda issued under their own signature while the barbarous Germanization program was in full swing. We can give no credence to such defenses when the words of a defendant absolutely refute the contentions now urged. It is no defense for a defendant to insist, for instance, that he never evacuated populations when orders exist, signed by him, in which he directed that the evacuation should take place. While in such a case the defendant might not have actually carried out the physical evacuation in the sense that he did not personally evacuate the population, he nevertheless is responsible for the action, and his participation by instigating the action is more pronounced than that of those who actually performed the deed.

Another defense urged is that, in performing certain functions, the defendants were acting under superior orders. By Control Council Law No. 10 it is expressly provided that superior orders

shall not free a defendant from responsibility for crime but this fact may be considered in mitigation of punishment. We have, in passing judgment on all the defendants, given due consideration to this defense as it might affect the punishment of the individual defendants. It is our view in this respect that justice demands a fair consideration of the fact that each and all defendants occupied a subordinate position, being answerable to Himmler, and several of the defendants were even subordinate to other defendants at bar.

Still another defense often asserted is to the effect that if certain events happened, or certain orders or memoranda were issued, the defendant knew nothing of these transactions. Such a defense is of no avail when it appears, as it does in many instances, that the defendant urging such a defense actually issued an order or memorandum, or actually received it, or otherwise had full knowledge, at the time, of the commission of various acts.

It has been urged and argued at length that certain territories, such as the Incorporated Eastern Territories of Poland and parts of Luxembourg, Alsace, and Lorraine, were incorporated into the Reich and thereby became a part of Germany during the war. Hence, it is urged, the laws and customs of war are inapplicable to these territories.

Any purported annexation of territories of a foreign nation, occurring during the time of war and while opposing armies were still in the field, we hold to be invalid and ineffective. Such territory never became a part of the Reich but merely remained under German military control by virtue of belligerent occupancy. Moreover, if it could be said that the attempted incorporation of territories into the Reich had a legal basis, it would avail the defendants nothing, for actions similar to those occurring in the areas attempted to be annexed also occurred in areas which Germany never professed to have incorporated into the Reich.

COUNT THREE

Count three of the indictment charges all defendants, except the defendant Viermetz, with membership in a criminal organization, namely, the SS. This charge will be dealt with in passing upon the guilt or innocence of the individual defendants.

We shall now consider and determine the individual responsibility of the defendants.

ULRICH GREIFELT

The defendant Ulrich Greifelt, as chief of the Staff Main Office and deputy to Himmler, was, with the exception of Himmler, the

main driving force in the entire Germanization program. By an abundance of evidence it is established beyond a reasonable doubt, as heretofore detailed in this judgment, that the defendant Greifelt is criminally responsible for the following actions: kidnaping of alien children; hampering the reproduction of enemy nationals; forced evacuations and resettlement of populations; forced Germanization of enemy nationals; the utilization of enemy nationals as slave labor; and the plunder of public and private property.

The evidence submitted is insufficient to establish beyond a reasonable doubt the defendant Greifelt's guilt upon the following specific charges: abortions on Eastern workers; taking away infants of Eastern workers; and the punishment of foreign nationals for sexual intercourse with Germans.

The defendant Greifelt is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Greifelt was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

RUDOLF CREUTZ

Rudolf Creutz, as deputy to Greifelt, was an active participant in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment; and it has been established beyond any reasonable doubt that the defendant Creutz is criminally responsible for, and implicated in, the following criminal activities: the kidnaping of alien children; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of foreign nationals as slave labor.

Upon the following specific charges the evidence is insufficient to justify a conclusion of guilt: abortions on Eastern workers; taking away infants of Eastern workers; punishment of foreign nationals for sexual intercourse with Germans; and hampering the reproduction of enemy nationals.

The defendant Creutz is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Creutz was a member of a criminal organization, that is, the SS, under the conditions

defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

KONRAD MEYER-HETLING

Konrad Meyer-Hetling was chief of the planning office within the Staff Main Office. During his entire period of service in this position he was a part time worker only, still retaining a professorship at the University of Berlin. Meyer-Hetling is a scientist of considerable world renown—an agricultural expert.

The prosecution's case rests principally upon the "General Plan East", a survey and proposed plan for the "reconstruction of the East", prepared by Meyer-Hetling at Himmler's request and submitted to Himmler on 28 May 1942. It is the contention of the prosecution that this plan formed the basis for the measures taken in the incorporated Eastern territories and other occupied territories.

A consideration of General Plan East, as well as correspondence dealing with this plan, reveals nothing of an incriminatory nature. This plan, as contended by the defendant, envisaged the orderly reconstruction of the East—and particularly village and country—after the war. The plan plainly states, "According to plan, the achievement of the work of reconstruction will be spread over five periods of 5 years each, totalling 25 years." There is nothing in the plan concerning evacuations and other drastic measures which were actually adopted and carried out in the Germanization program. As a matter of fact, it is made quite plain by the evidence, as the defendant contended, that this General Plan East was never adopted and no effort was made to carry out its proposals. Actually, Himmler, instead of an orderly reconstruction, decided upon and pursued a drastic plan which in all its cruel aspects sought the reconversion of the East into a Germanic stronghold practically overnight. Of course, Meyer-Hetling is not responsible for these measures which he did not suggest.

Simply by virtue of his position as chief of planning, the prosecution would have the Tribunal assume that Meyer-Hetling was the person responsible for all planning and, consequently, the drastic actions taken must have had their origin in his planning. The difficulty with such an assumption is that there is no proof to support it. He is charged, for instance, with such criminal activities as kidnaping alien children, abortions on Eastern workers, and hampering the reproduction of enemy nationals. Yet in thousands of pages of documentary and oral evidence, there is not a single syllable of evidence even remotely connecting him with any of these activities.

Upon the evidence submitted, the defendant Meyer-Hetling is found not guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Meyer-Hetling was a member of a criminal organization; that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

OTTO SCHWARZENBERGER

Otto Schwarzenberger was chief of finance in the Staff Main Office. As such, he dealt with the operational finances and expenses of all organizations charged in the indictment with participation in the Germanization program. He also handled operational finances of other organizations, such as DUT, DAG, EWZ, and UWZ.

Schwarzenberger has contended throughout the trial that, as chief of finance, his duties consisted almost entirely of paying out funds on lumpsum requisitions submitted to him by various organizations, and that, as chief of finance, he had no power to approve or disapprove requisitions for funds, which was a duty resting solely with the Reich Minister of Finance. He contends, furthermore, that not even in the requisitions and bills submitted to his office was there anything indicating the purpose for which the funds were to be used or had been used, and he never had knowledge of the purposes for which these funds were being dispersed. Schwarzenberger's contentions are supported by an abundance of evidence. It would appear from the evidence that Schwarzenberger's principal task was to submit to the Reich Minister of Finance a budget containing the estimated operational needs of the various departments; and upon approval by the Reich Minister of Finance, the funds were deposited with Schwarzenberger's office for payment to the various organizations.

Volumes of documents have been introduced by the prosecution in this case—hundreds pertaining to the various organizations involved—and Schwarzenberger's name is conspicuous in its absence among these documents. No documentary evidence of an incriminatory nature has been offered against this defendant; yet the prosecution would have the Tribunal assume, as it is argued, that he held numerous conferences with all departments with reference to all financial matters and was intimately acquainted with all activities of the various departments. This is an assumption

which the prosecution bases wholly upon the position held by the defendant and which is not supported by proof.

Upon the evidence submitted, the defendant Schwarzenberger is found not guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Schwarzenberger was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

HERBERT HUEBNER

As chief of labor staffs and the resettlement staff in Poznan, Herbert Huebner was concerned in the forcible evacuation and resettlement actions as well as the slave labor program. Within the area under his jurisdiction and supervision, these actions were carried out on a large scale. One document, written by him, suffices to show his connection with these actions. Huebner on 29 August 1941 wrote to the SS Settlement Staff at Lodz and Poznan as follows:

“According to the newest order of the Reich Governor, the Poles who will have to be displaced in the course of the settlement must under no condition leave the Warthegau, e.g., in order to be allocated for labor in Germany proper via the employment offices, since the Poles will probably be needed later on as manpower (in this area). The Landraete (chiefs of district adm.) will have to provide emergency work for them until large-scale projects will provide the possibility to make use of all available Polish manpower.

“The Reich Governor will instruct the Landraete tomorrow by circular letter to make all provisions to prevent the displaced Poles from leaving the Gau. The Landraete also were again urged to support the displacement measures in every way.

“I request you to comply with this order under all conditions and, where necessary, to instruct the Landraete to provide housing for the Poles to be displaced. In all cases they are to be informed in time of any planned displacement measures.”

It has been established by the evidence beyond a reasonable doubt that the defendant Huebner actively participated in the forced evacuation and resettlement of foreign populations and the use of foreign nationals as slave labor.

The evidence is insufficient to authorize a conclusion of guilt on the part of Huebner with regard to the other specifications of the indictment.

The defendant Huebner is found guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Huebner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

WERNER LORENZ

The defendant Werner Lorenz, as chief of VoMi, was an active participant in practically every phase of the Germanization program, as has heretofore been set forth in detail in this judgment. The evidence establishes beyond any reasonable doubt that Lorenz is criminally responsible for and implicated in the following criminal activities: the kidnaping of alien children; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy nationals; the utilization of enemy nationals as slave labor; the forced conscription of non-Germans into the SS and armed forces; and the plunder of public and private property. The evidence is insufficient to authorize a conclusion of guilt with regard to forcible abortions on Eastern workers.

The defendant Lorenz is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Lorenz was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

HEINZ BRUECKNER

Heinz Brueckner, as head of the Amt VI of VoMi, actively participated in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment. It has been established beyond a reasonable doubt that this defendant is criminally responsible for and implicated in the following criminal activities: the kidnaping of alien children; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy

nationals; and the utilization of enemy nationals as slave labor.

The evidence is insufficient to authorize a conclusion of guilt on the part of Brueckner with regard to the other specifications of the indictment.

The defendant Brueckner is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Brueckner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

OTTO HOFMANN

Otto Hofmann, as chief of RuSHA from 1940 to 1943, actively participated in the measures adopted and carried out in the furtherance of the Germanization program, as has heretofore been set forth in detail in this judgment. The evidence establishes beyond any reasonable doubt Hofmann's guilt and criminal responsibility for the following criminal activities pursued in the furtherance of the Germanization program: the kidnaping of alien children; forcible abortions on Eastern workers; taking away infants of Eastern workers; the illegal and unjust punishment of foreign nationals for sexual intercourse with Germans; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy nationals; and the utilization of enemy nationals as slave labor.

The evidence is insufficient to prove this defendant's guilt with regard to the plunder of public and private property.

The defendant Hofmann is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Hofmann was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

RICHARD HILDEBRANDT

Richard Hildebrandt was Higher SS and Police Leader at Danzig-West Prussia from October 1939 to February 1943, and

simultaneously he was leader of the Administration District Danzig-West Prussia of the Allgemeine SS and deputy of the RKFDV. From 20 April 1943 to the end of the war, he was chief of RuSHA. From 1939 to 1945, while serving in these capacities, he was deeply implicated in many measures put into force in the furtherance of the Germanization program, as has heretofore been set forth in detail in this judgment. By an abundance of evidence, it has been established beyond a reasonable doubt that the defendant Hildebrandt actively participated in and is criminally responsible for the following criminal activities: the kidnaping of alien children; forcible abortions on Eastern workers; taking away infants of Eastern workers; the illegal and unjust punishment of foreign nationals for sexual intercourse with Germans; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of the enemy nationals as slave labor.

Hildebrandt, as the sole defendant, is charged with special responsibility for and participation in the extermination of thousands of German nationals pursuant to the so-called "Euthanasia program." It is not contended that this program, insofar as Hildebrandt might have been connected with it, was extended to foreign nationals. It is urged by the prosecution, however, that notwithstanding this fact, the extermination of German nationals under such a program constitutes a crime against humanity; and in support of this argument the prosecution cites the judgment of the International Military Tribunal as well as the judgment in the case of the United States of America *vs.* Brandt, Case No. 1. Neither decision substantiated the contention of the prosecution. For instance, in holding defendants guilty in the Brandt judgment, the Tribunal expressly pointed out that the defendants, in participating in this program, were responsible for exterminating foreign nationals. The Tribunal expressly stated:

"Whether or not a state may validly enact legislation which imposes euthanasia upon certain classes of its citizens is likewise a question which does not enter into the issues. Assuming that it may do so, the Family of Nations is not obliged to give recognition to such legislation when it manifestly gives legality to plain murder and torture of defenseless and powerless human beings of other nations.

"The evidence is conclusive that persons were included in the program who were non-German nationals. The dereliction of the defendant Brandt contributed to their extermination. That is enough to require this Tribunal to find that he is criminally responsible in the program."

It is our view that euthanasia, when carried out under state legislation against citizens of the state only, does not constitute a crime against humanity. Accordingly the defendant Hildebrandt is found not to be criminally responsible with regard to this specification of the indictment.

The evidence is insufficient to implicate this defendant on the specification regarding the plunder of public and private property.

The defendant Hildebrandt is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Hildebrandt was a member of a criminal organization, that is, the SS under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

FRITZ SCHWALM

The defendant Fritz Schwalm was an active participant in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment. It has been established by the evidence beyond a reasonable doubt that this defendant is criminally responsible for and implicated in the following criminal activities conducted in the furtherance of this program: kidnapping of alien children; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of enemy nationals as slave labor.

Upon the other specifications of the indictment the evidence is insufficient to justify a conclusion of guilt on the part of this defendant.

The defendant Schwalm is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Schwalm was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

MAX SOLLMANN

The defendant Max Sollmann, as chief of Lebensborn—together with the other three defendants connected with that institution—is charged with criminal responsibility in three specifications of

the indictment, namely, the kidnaping of alien children, taking away infants of Eastern workers, and the plunder of public and private property. With two of these specifications we have already dealt. We now consider the charge concerning the kidnaping of alien children.

It is quite clear from the evidence that the Lebensborn Society, which existed long prior to the war, was a welfare institution, and primarily a maternity home. From the beginning, it cared for mothers, both married and unmarried, and children, both legitimate and illegitimate.

The prosecution has failed to prove with the requisite certainty the participation of Lebensborn, and the defendants connected therewith, in the kidnaping program conducted by the Nazis. While the evidence has disclosed that thousands upon thousands of children were unquestionably kidnaped by other agencies or organizations and brought into Germany, the evidence has further disclosed that only a small percentage of the total number ever found their way into Lebensborn. And of this number only in isolated instances did Lebensborn take children who had a living parent. The majority of those children in any way connected with Lebensborn were orphans of ethnic Germans. As a matter of fact, it is quite clear from the evidence that Lebensborn sought to avoid taking into its homes, children who had family ties; and Lebensborn went to the extent of making extensive investigations where the records were inadequate, to establish the identity of a child and whether it had family ties. When it was discovered that the child had a living parent, Lebensborn did not proceed with an adoption, as in the case of orphans, but simply allowed the child to be placed in a German home after an investigation of the German family for the purpose of determining the good character of the family and the suitability of the family to care for and raise the child.

Lebensborn made no practice of selecting and examining foreign children. In all instances where foreign children were handed over to Lebensborn by other organizations after a selection and examination, the children were given the best of care and never ill-treated in any manner.

It is quite clear from the evidence that of the numerous organizations operating in Germany who were connected with foreign children brought into Germany, Lebensborn was the one organization which did everything in its power to adequately provide for the children and protect the legal interests of the children placed in its care.

Upon the evidence submitted, the defendant Sollmann is found not guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Sollmann was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

GREGOR EBNER

Upon the evidence submitted, the defendant Gregor Ebner is found not guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Gregor Ebner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

GUENTHER TESCH

Upon the evidence submitted, the defendant Guenther Tesch is found not guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Guenther Tesch was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

INGE VIERMETZ

Upon the evidence submitted, the defendant Inge Viermetz is found not guilty on all counts of the indictment with which she has been charged.

This March 10, 1948

[signed] LEE B. WYATT
Presiding Judge
DANIEL T. O'CONNELL
Judge
JOHNSON T. CRAWFORD
Judge

SENTENCES

ULRICH GREIFELT, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you Ulrich Greifelt, to life imprisonment.

RUDOLF CREUTZ, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Rudolf Creutz, to fifteen years of imprisonment.

KONRAD MEYER-HETLING, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely since 27 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

OTTO SCHWARZENBERGER, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 2 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

HERBERT HUEBNER, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand

convicted, Military Tribunal I sentences you, Herbert Huebner, to fifteen years of imprisonment.

WERNER LORENZ, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Werner Lorenz, to twenty years of imprisonment.

HEINZ BRUECKNER, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Heinz Brueckner, to fifteen years imprisonment.

OTTO HOFMANN, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Otto Hofmann, to twenty-five years of imprisonment.

RICHARD HILDEBRANDT, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Richard Hildebrandt, to twenty-five years of imprisonment.

FRTZ SCHWALM, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Fritz Schwalm, to ten years of imprisonment.

MAX SOLLMANN, Military Tribunal I has found and adjudged

you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 6 July 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

GREGOR EBNER, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 5 July 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

GUENTHER TESCH, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 13 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

INGE VIERMETZ, having been acquitted shall be discharged from custody by the marshal when the Tribunal presently adjourns. This the 10th day of March, 1948.

[Signed] LEE B. WYATT
Presiding Judge, Tribunal No. I.

DANIEL T. O'CONNELL
Judge, Tribunal No. I

[Handwritten] Concurring specially.

JOHNSON T. CRAWFORD
Judge, Tribunal No. I

X. CONCURRING AND DISSENTING OPINION BY JUDGE DANIEL T. O'CONNELL

Dissent by O'Connell, Judge, Military Tribunal I from Such Part of Judgment as Fixes Periods of Imprisonment Applicable to the Defendants, Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt

With all findings of the Tribunal and disposition of indictments as applicable to all defendants, I concur, except in respect to sentences of imprisonment imposed upon the defendants Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt. I dissent from the majority of the Tribunal in the extent of terms of imprisonment as applicable to the aforesaid defendants and for reasons hereinafter stated.

It is my reasoned judgment, based upon nineteen years of judicial service, related in large measure to imposition of prison sentences, that in respect to each of the above-named defendants, the sentence imposed is too extreme in fixed duration of time when consideration is given to the character and scope of the duties each performed. Severity of sentence is erroneously believed by many to be a preventive of future crime by others. I do not subscribe to such a belief.

These six defendants, associated with other defendants, some of whom have been found not guilty of the crimes alleged in counts one and two, were essentially employed in civilian capacities. Their duties related almost exclusively to direction, or aiding in direction, of bureaus subordinate to governmental control, springing from the power Himmler exercised as delegated by Hitler, and accompanied with all its ruthlessness as disclosed by the evidence before us. Their guilt is fixed by the findings heretofore set forth, is entwined with military mandates and superiority of direction. Grave difficulty exists in effecting separation of dominant governmental and military superiority of direction from civilian association and support.

All governments engaging in war, of necessity, must have the aid of civilian bureaus operating under governmental direction, and functioning closely with the armed forces. It is difficult to draw a line fixing to what extent punishment can be inflicted upon those associated with civilian bureaus, also how far down the line of authority in the direction of bureau activities, responsibility is to be fixed in decreeing punishment and

the extent of punishment the civilian invites for himself or herself in participating in actual war activities. It is also most difficult to determine to what extent the civilian bureau official joins in spirit, or without definite objection or protest, against acts calculated to further the perpetration of criminal acts.

These defendants cannot rightly be held accountable in degree of participation in the war crimes alleged, and of which they have been found guilty, as would be warranted if they, respectively, had been wholly or substantially acting upon their own initiative. It is, therefore, a warranted judicial conclusion that the sentences imposed upon these civilian officials, even though all enjoyed military titles, awarded as establishing greater and perhaps more effective prestige in executing their civilian duties, should be less in severity than as fixed by the majority of the Tribunal.

In no instance as affecting these defendants do I believe a sentence of life imprisonment is warranted; neither is it warranted to fix upon sentences which in duration carry the person to an age which, based upon normal life expectancy, is the equivalent of a life sentence.

I believe, also, sound reasoning in respect to decreeing of imprisonment should include a stated direction that the sentence imposed is to be reduced by subtraction of the period of time covered by imprisonment while awaiting trial.

I concur with the majority of the Tribunal in respect to the sentences imposed upon the defendants Huebner and Schwalm.

As applicable to the defendants Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt, the sentences which I believe should be decreed and in respect to which I record my judgment, are as follows:

- (1) The defendant, Greifelt, twenty (20) years,
- (2) The defendant, Creutz, ten (10) years,
- (3) The defendant, Lorenz, fifteen (15) years,
- (4) The defendant, Brueckner, ten (10) years,
- (5) The defendant, Hofmann, fifteen (15) years,
- (6) The defendant, Hildebrandt, fifteen (15) years,

and furthermore:

That in each and all instances, the period of sentence be reduced to the extent as disclosed by the prison records the defendants, respectively, have heretofore been imprisoned.

10 March 1948

[Signed] DANIEL T. O'CONNELL
Judge, Military Tribunal I

XI. AFFIRMATION OF SENTENCES BY THE MILITARY GOVERNOR OF THE UNITED STATES ZONE OF OCCUPATION

A. Introduction

Under Article XV of Ordinance No. 7, the sentences imposed by a Tribunal are subject to review. Article XVII provides that "the record of each case shall be forwarded to the Military Governor who shall have the power to mitigate, reduce, or otherwise alter the sentence imposed by the tribunal, but may not increase the severity thereof."

The sentences of the Tribunal with respect to the following defendants in Case No. 8 were confirmed on 12 February 1949 by General Lucius D. Clay, Military Governor of the American Zone of Occupation and Commander in Chief of the European Command: Greifelt, Creutz, Meyer-Hetling, Huebner, Lorenz, Brueckner, Hofmann, Hildebrandt, and Schwalm. All of these defendants were sentenced to imprisonment for a term of years, except the defendant Meyer-Hetling. Meyer-Hetling was convicted only for membership in a criminal organization, the SS, and the sentence of the Tribunal declared that the time he had spent in confinement pending trial was sufficient punishment. Although he was discharged from custody when the Tribunal adjourned, his counsel filed a petition to modify the sentence. The sentence was confirmed.

No petition for review of sentence was filed on behalf of the defendants Schwarzenberger, Sollmann, Ebner, and Tesch. These four defendants, as in the case of Meyer-Hetling, were convicted only for membership in a criminal organization and were discharged from custody when the Tribunal adjourned. Hence there is no order by the Military Governor with respect to their sentences.

The orders of the Military Governor with respect to the sentences of the defendants Greifelt and Meyer-Hetling, are set forth on pages 171 and 172.

B. Orders of the Military Governor with Respect to the Sentences of the Defendants Greifelt and Meyer-Hetling

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

Berlin, Germany
12 February 1949

In the Case of The
United States of America

Military Tribunal I,
Case No. 8

vs.

Ulrich Greifelt, et al.

Order with Respect to Sentence of Ulrich Greifelt

In the case of the United States of America against Ulrich Greifelt, et al., tried by United States Military Tribunal I, Case No. 8, Nuremberg, Germany, the defendant Ulrich Greifelt, on 10 March 1948, was sentenced by the Tribunal to life imprisonment. A petition to modify the sentence filed on behalf of the defendant by Dr. Carl Haensel, his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

a. the sentence imposed by Military Tribunal I on Ulrich Greifelt be, and hereby is, in all respects confirmed;

b. this action is taken with due regard for the fact that the defendant is now deceased.*

[Signed] Lucius D. Clay
LUCIUS D. CLAY
General, U. S. Army

Military Governor and Commander-in-Chief European Command

* Defendant died in Nuernberg prison, 6 February 1949.

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

Berlin, Germany
12 February 1949

In the Case of The
United States of America

vs.

Military Tribunal I
Case No. 8

Ulrich Greifelt, et al.

*Order with Respect to Sentence of Konrad Meyer-Hetling **

In the case of the United States of America against Ulrich Greifelt, et al., tried by United States Military Tribunal I, Case No. 8, Nuremberg, Germany, the Tribunal was of the opinion that, with regard to the defendant Konrad Meyer-Hetling, the time already spent in confinement pending trial, namely, since 27 May 1945, was sufficient punishment for the offense for which the defendant was convicted and therefore ordered that he should be discharged from custody by the Marshal when the Tribunal adjourned on 10 March 1948. A petition to modify the sentence, filed on behalf of the defendant by Dr. Kurt Behling, his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that the sentence imposed by Military Tribunal I on Konrad Meyer-Hetling be, and hereby is, in all respects confirmed.

[Signed] Lucius D. Clay
LUCIUS D. CLAY
General, U. S. Army

Military Governor and Commander-in-Chief European Command

* The sentences imposed on defendants Creutz, Huebner, Lorenz, Brueckner, Hofmann, Hildebrandt, and Schwalm were likewise confirmed in all respects.

XII. ORDER OF THE SUPREME COURT OF THE UNITED STATES DENYING WRIT OF HABEAS CORPUS

SUPREME COURT OF THE UNITED STATES

October Term, 1948

No. 508 Misc. In the Matter of Heinz Brueckner
No. 509 Misc. In the Matter of Rudolf Creutz
No. 510 Misc. In the Matter of Otto Hofmann
No. 511 Misc. In the Matter of Herbert Huebner
No. 512 Misc. In the Matter of Werner Lorenz
No. 513 Misc. In the Matter of Fritz Schwalm

O R D E R

“Treating the application in each of these cases as a motion for leave to file a petition for an original writ of habeas corpus, leave to file is denied. The Chief Justice, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Burton are of the opinion that there is want of jurisdiction. U.S. Constitution, Article III, Sec. 2, Clause 2; see *Ex parte Betz* and companion cases, all 329 U.S. 672 (1946); *Milch v. United States*, 332 U.S. 789 (1947); *Brandt v. United States*, 333 U.S. 836 (1948); *In re Eichel*, 333 U.S. 865 (1948); *Everett v. Truman*, 334 U.S. 824 (1948). Mr. Justice Black, Mr. Justice Douglas, Mr. Justice Murphy, and Mr. Justice Rutledge are of the opinion that argument should be heard on the motions for leave to file the petitions in order to settle what remedy, if any, the petitioners have. Mr. Justice Jackson took no part in the consideration or decision of these applications.”

May 2, 1949

APPENDIX

List of Witnesses in Case 8

[Note.—All witnesses in this case appeared before the Tribunal. Prosecution witnesses are designated by the letter "P;" defense witnesses by the letter "D". The names not preceded by any designation represent defendants testifying in their own behalf. Designation "1" shows witness called by defense although affidavit was submitted by prosecution. Extracts from testimony in this case are listed in the index of documents and testimonies.]

	Name	Dates of testimony	Pages (mimeographed transcript)
D	ADAMCZYK, Janina.....	13 Jan 48.....	3576-3584
P	ANTCZAK, Alina.....	6 Nov 47.....	1122-1141
D	AUST, Herbert.....	12 Jan 48.....	3480-3525
P	BACH-ZELEWSKI, Erich von dem.....	24, 27 Oct 47.....	381-476
D	BARTELS, Fritz.....	29, 30 Jan 48.....	4628-4695
D	BAUER, Heinrich.....	14 Jan 48.....	3648-3661
D	BERGER, Gottlob.....	16 Jan 48.....	3837-3873
D	BERGNER, Lucie.....	23 Jan 48.....	4225-4238
D	BETHGE, Berthold Willy.....	9 Dec 47.....	2163-2200
P	BRIEDER, Reinhard.....	30 Oct 47.....	772-783
	BRUECKNER, Heinz.....	19 Dec 47.....	2824-2894
	CREUTZ, Rudolf.....	8, 9 Dec 47.....	2062-2161
P	DOLEZALOVA, Maria.....	30 Oct. 47.....	812-818
D	DUEKER, Robert.....	30 Jan 48.....	4714-4720
D	EBERSTEIN, Friedrich Karl von.....	21 Jan 48.....	4091-4120
	EBNER, Gregor.....	26, 27 Jan 48.....	4389-4436
D	EBBRECHT, George.....	16 Jan 48.....	3808-3837
P	EHLICH, Hans.....	28, 29, 30 Oct 47.....	572-653; 734-771
D	ELLERMEIER, Walter Hermann.....	19, 22 Dec 47.....	2905-2926
D	FABRITIUS, Friedrich.....	5 Jan 48.....	3068-3071
D	FERSCH, Otto.....	13 Jan 48.....	3585-3603
P	FIEDLER, Heinz.....	4 Nov 47.....	942-968
D	FINSTERER, Fritz.....	12 Dec 47.....	2403-2425
D	FRANKEN, Josef.....	12 Dec 47.....	2386-2403
P	GERBEL, Ferdinand.....	31 Oct, 4 Nov 47.....	896-932
P	GOETZ, Hans Joachim.....	4 Nov 47.....	969-1005
D	GOLLING, Siegfried.....	4 Dec 47.....	1902-1961
D	GRAEBE, Kurt.....	2 Dec 47, 29 Jan 48.....	1785-1800; 4588-4599
	GREIFELT, Ulrich.....	24, 25, 26 Nov 47 1, 2 Dec 47.....	1404-1750
D	GROTZ, Hermann.....	5, 6 Jan 48.....	3118-3169
D	HAESSLER, Rudolf.....	15 Jan 48.....	3786-3807
D	HAGEN, Hans.....	30 Jan 48.....	4723-4733
P	HANFOVA, Maria.....	30 Oct 47.....	802-812

List of Witnesses in Case 8 (Cont'd)

	Name	Dates of testimony	Pages (mimeographed transcript)
P	HEINZE-WISSWEDE, Maria Martha	27 Oct 47	493-535
	HILDEBRANDT, Richard	19, 20, 21 Jan 48, 2 Feb 48	3874-4120; 4771-4774
P	HITZFELD, Ernst	27, 28 Oct 47	537-571
P	HOFFMANN, Edgar	31 Oct 47	836-895
	HOFMANN, Otto	6, 7 Jan 48	3169-3332; 4774-4776
D	HOMUTH, Betty	15 Jan 48	3729-3745
P	HOPPE, Emma	5 Nov 47	1040-1045
	HUEBNER, Herbert	12, 15, 16 Dec 47	2454-2628
D	KAESTLE, Karl	15 Jan 48	3716-3728
P	KASEL, Camille	10 Nov 47	1162-1202
D	KAUL, Heinrich	12 Jan 48	3512-3525
D	KLINGSPORN, Hans	22 Dec 47	2945-2989
P	KLUKOWSKI, Zygmunt	5 Nov 47	1022-1038
P	KRUMBEY, Hermann A.	17 Dec 47, 12 Jan 48	2667-2672; 3478-3479
D	KUBITZ, Hans Joachim	22, 23 Dec 47	2989-3020
D	KUESTER, Georg	18 Dec 47	2817-2823
D	KUETENBRINK, Luise	16, 17 Dec 47	2628-2661
P	LAVITAN, Loues	2 Feb 48	4759-4763
D	LENZ, Martin	12 Dec 47	2426-2436
D	LORENZ, Reinhold	23 Dec 47	3053-3062
	LORENZ, Werner	17, 18 Dec 47	2730-2816
D	LUSER, Gisela	22 Jan 48	4187-4198
D	LUSER, Waldemar	22 Jan 48	4169-4186
P	MAIWALD, Richard	30 Oct 47	783-795
D	MALSEN-PONICKAU, Lambert von	13 Jan 48	3526-3556
D	MAYER, Hilde	23 Jan 48	4239-4265
D	MEDING, Erhard	11 Dec 47	2290-2326
D	MENSE, Traugott	2 Dec 47	1764-1784
P	METZGER, Ludwig	10 Nov 47	1202-1207
P	MEYER, Rudolf	5 Nov 47	1039-1040
	MEYER-HETLING, Konrad	9, 10, 11 Dec 47, 2 Feb 48	2201-2289; 4776-4778
D	MICHEL, Anna	23 Jan 48	4281-4292
P	MIKOLATCZYK, Barbara	6 Nov 47	1109-1122
P	PACZESNY, Slavomir Grodonski	6 Nov 47	1141-1148
D	PANCKE, Guenther	29 Oct 47	654-734
D	PASI, Anna M.	12 Dec 47	2439-2454
D	PAULUS, Willy	22 Jan 48	4122-4134
P	PETRAKOVA, Ruzena	30 Oct 47	796-802
D	PFEFFER, Franz	5 Dec 47	1964-1971
D	PIEGER, Nikolaus	22 Dec 47	2926-2945
D	PURM, Willi	23 Dec 47	3062-3065
D	RADUNSKI, Konrad	23 Dec 47	3020-3038
D	RADUSCH, Friedrich Wilhelm	12 Jan 48	3465-3477
D	RAGALLER, Ernst	30 Jan 48	4695-4714

List of Witnesses in Case 8 (Cont'd)

	Name	Dates of testimony	Pages (mimeographed transcript)
D	RAHNER, Margarete	17 Dec 47	2662-2665
D	RAUTHENFELD, Behrens Goetz von	13 Jan 48	3557-3567
D	REICHERT, Leo	5 Dec 47	1971-1983
D	RINK, Katharina	14 Jan 48	3690-3704
I	ROEDEL, Georg Albert	23 Dec 47, 12 Jan 48	3038-3048; 3448-3465
P	ROEGNER, Adolf	27 Oct 47	477-493
D	RUEBEL, Heinrich	13, 14 Jan 48	3603-3648
D	SAENGER, Ingrid	28 Jan 48	4574-4586
D	SCHAEFER, Hans	2, 3 Dec 47	1800-1836
D	SCHAFHAUSER, Carl	19 Dec 47	2896-2904
D	SCHALLERMEIER, Luitpold	5 Dec 47	1985-1997
D	SCHLIPPENBACH, Kuno von	9 Jan 48	3420-3432
P	SCHULZ, Erich	5 Nov 47	1060-1098
	SCHWALM, Fritz	8, 9, 12 Jan 48	3336-3448
	SCHWARZENBERGER, Otto	11, 12 Dec 47	2328-2385
D	SEMTER, Julie	23 Jan 48	4266-4274
D	SIMANOWSKI, Elfriede	14 Jan 48	3705-3715
D	SOECHTIG, Rudolf	22 Jan 48	4135-4147
	SOLLMANN, Max	23, 26 Jan 48	4293-4389
D	SPAARMANN, Erich	17 Dec 47	2672-2695
D	STAUDTE, Hans Hilmar	29 Jan 48	4599-4627
D	STIER, Guenther	3, 4 Dec 47	1837-1901
D	SUADICANI, Hertha	14 Jan 48	3664-3688
D	SUCHERT, Lotte	22 Jan 48	4198-4214
P	SYDOWER, Wilhelm	2 Feb 48	4752-4763
	TESCH, Guenther	27 Jan 48	4436-4490
D	TESSERAUX, Ernst	5 Jan 48	3071-3118
P	UEBE, Otto	4 Nov 47	932-942
D	UNRUH, Benjamin Heinrich von	17 Dec 47	2714-2730
	VIERMETZ, Inge	28 Jan 48, 2 Feb 48	4492-4573; 4778-4780
D	VIETZ, Franz	17 Dec 47, 15 Jan 48	2695-2712; 3745-3786
D	VOGT, Suse	23 Jan 48	4215-4225
D	WEINBRENNER-MICHAEL, Therese	23 Jan 48	4274-4281
D	WINKLER, Max	2 Dec 47	1754-1762
P	WIRSICH, Kuno	22, 23, 24 Oct 47	207-380
D	WOLFF, Karl	5, 8 Dec 47	1997-2056
D	WOLFGAMM, Elli	13 Jan 48	3568-3575

INDEX OF DOCUMENTS AND TESTIMONIES

Document No.	Exhibit No.	Description	Vol-Page
NO-435	.....Pros. Ex. 399....	Letter from the Minister of State for the Protectorate of Bohemia and Moravia, to Rudolf Brandt, 13 June 1944, concerning children of executed Czechs.	IV, 1031
NO-681	.....Pros. Ex. 390....	Instructions for execution of the action against partisans and "other bandits" in Upper Carniola and Lower Styria, 25 June 1942.	IV, 1054
NO-724	.....Pros. Ex. 572....	Memorandum from SS General Frank to the Chiefs of the Lublin and Auschwitz concentration camps, 26 September 1942, concerning the utilization of Jewish property.	IV, 961
NO-850	.....Pros. Ex. 516....	Circular issued by Juers, Chief of the Recruiting Office of the Waffen SS, 5 March 1942, concerning the examination of Poles by examiners of the Waffen SS.	IV, 1153
NO-1126	.....Pros. Ex. 419....	File memorandum of the conference at the Reich Ministry of Justice on 10 March 1943, concerning subsistence claims of illegitimate Polish children against their Polish fathers.	IV, 1119
NO-1365	.....Pros. Ex. 528....	Circular issued by the Reich Security Main Office signed by Kaltenbrunner, 10 February 1944, concerning punishment for sexual intercourse of Germans and foreign workers; attached cover letter, 13 March 1944, and Gestapo forms.	IV, 1141
NO-1371	.....Pros. Ex. 425....	Letter from Tesch to Ebner, 16 July 1943, requesting expert opinions on Germanized Polish children.	IV, 1000
NO-1381	.....Pros. Ex. 276....	Memorandum signed by Hildebrandt, 15 July 1943, concerning emigration applications to France.	IV, 923

Document No.	Exhibit No.	Description	Vol-Page
NO-1384	.....Pros. Ex. 472....	Circular letter from Kaltenbrunner to the Higher SS and Police Leaders, Gestapo Directorates and Criminal Police Directorates, 1 August 1943, concerning interruption of pregnancy of female Eastern workers and Polish women.	IV, 1080
NO-1393	.....Pros. Ex. 115....	Circular letter from the Race Office of the RuSHA, 28 September 1944, signed by Klinger, concerning the treatment of persons of German origin who fail to apply for registration in the German People's List.	IV, 735
NO-1404	.....Pros. Ex. 163....	Letter from Hofmann to Schultz, Chief of the Race Office, 12 February 1942, concerning the separation of Polish children from parents who resist Germanization.	IV, 779
NO-1413	.....Pros. Ex. 499....	Circular of the Reich Minister of the Interior, 5 June 1944, concerning illegitimate children of foreign female workers.	IV, 1101
NO-1494	.....Pros. Ex. 556....	Letter from the Race and Settlement Leader Aust, to RuSHA, Genealogical Records Office, 27 May 1944, concerning the case of Sydower.	IV, 1132
NO-1495	.....Pros. Ex. 881....	Memorandum from Hofmann to the Race Office, 12 February 1942, concerning the transfer to the East of staff and factories of Gaertner, a German national living in Paris.	IV, 1122
NO-1600	.....Pros. Ex. 153....	Extract from report from Harders to Hofmann, 6 October 1942, concerning results of the Germanization program.	IV, 771
NO-1615	.....Pros. Ex. 407....	Circular signed by Greifelt, 19 February 1942, concerning the Germanization of Polish children.	IV, 996
NO-1669	.....Pros. Ex. 165....	Extracts from official correspondence, 28 May 1944 and 10 February 1943, concerning actions taken against Polish Nationals who refused to reg-	IV, 738

Document No.	Exhibit No.	Description	Vol-Page
		ister in the German People's List.	
NO-1943	.....Pros. Ex. 570....	General directive No. 18-C by Himmler, 15 December 1942, concerning the handling of Jewish property in the Government General, and undated memorandum concerning same subject.	IV, 969
NO-2267	.....Pros. Ex. 161....	Letter from Creutz to Himmler, 20 February 1942, concerning the selection of Polish female domestic servants for Germanization and their allocation to Germany.	IV, 787
NO-2400	.....Pros. Ex. 263....	Teletype from General of the Police Krueger to Himmler, 9 November 1942, concerning the settlement of Luxembourg citizens in the Lublin district.	IV, 922
NO-2444	.....Pros. Ex. 201....	Letter from Himmler to Governor General Frank, 3 July 1943, concerning resettlement problems in the Government General.	IV, 869
NO-2472	.....Pros. Ex. 272....	Letter from the Reich Ministry for enlightenment and propaganda to the RKFDV, attention of Wolff, 20 May 1942, concerning the fate of Alsatians and Lorrainers.	IV, 919
NO-2480	.....Pros. Ex. 162....	Statistical survey of female domestic servants and agricultural personnel suitable for Germanization, with cover letter from Creutz to Rudolf Brandt, 22 December 1942.	IV, 789
NO-2481	.....Pros. Ex. 158....	Letter from Greifelt to Himmler, 2 August 1941, concerning Polish female domestic servants suitable for Germanization.	IV, 784
NO-2552	.....Pros. Ex. 281....	Himmler Ordinance 18 June 1942, regarding resettlement from France of the population of German stock.	IV, 911
NO-2601	.....Pros. Ex. 606....	Extracts from letter from Greifelt to Himmler, 21 October 1943, concerning the utilization of confiscated Polish property.	IV, 964

Document No.	Exhibit No.	Description	Vol-Page
NO-2665	.....Pros. Ex. 566....	Report, signed by Grehl, 15 November 1944, concerning the inspection of the ghetto of Litzmannstadt (Lodz).	IV, 971
NO-2667	.....Pros. Ex. 614....	Report from Winkler to the Branch Office of the RKFDV in Bielitz (Poland), 12 March 1942, concerning the seizure of Polish property.	IV, 968
NO-2676	.....Pros. Ex. 592....	Directives from Himmler, 10 November 1939, concerning collaboration with the Main Trustee Office East.	IV, 959
NO-2775	.....Pros. Ex. 266....	Letter from Simon, Gauleiter of the Moselle district, to Himmler, 8 February 1944, concerning the treatment of Luxembourg deserters.	IV, 920
NO-2776	.....Pros. Ex. 267....	Letter from Himmler to Juettner, 22 February 1944, approving Gauleiter Simon's suggestions (NO-2775, Pros. Ex. 266).	IV, 921
NO-2780	.....Pros. Ex. 661....	Teletype from Krueger to Himmler, 28 January 1943, reporting on an attack by Polish farmers and punitive measures.	IV, 872
NO-2781	.....Pros. Ex. 662....	Teletype from Himmler to Krueger, 1 February 1943, acknowledging receipt of report (NO-2780, Pros. Ex. 661) and ordering ruthless retaliatory measures.	IV, 873
NO-2793	.....Pros. Ex. 414....	Memorandum of the Reich Ministry of the Interior, 10 December 1942, concerning registration for Germanization of Polish orphan children.	IV, 999
NO-2864	.....Pros. Ex. 524....	Letter from Schwalm to the Reich Leader SS, attention Kranefuss, 3 December 1943, concerning investigation of "special treatment" cases by RuSHA.	IV, 1154
NO-2878	.....Pros. Ex. 213....	Letter from Dr. Boeckmann to the Provincial President of Upper Silesia concerning the deportation of Poles and the subsequent resettlement of ethnic Germans.	IV, 864

Document No.	Exhibit No.	Description	Vol-Page
NO-3019	.....Pros. Ex. 394.....	Letter from the RKFDV Branch Office, Military District XVIII, to VoMi, 14 September 1942, concerning transfer of children of partisans from Upper Carniola and Lower Styria to the Altreich (Germany proper).	IV, 1056
NO-3074	.....Pros. Ex. 406.....	Letter from Creutz to the Reich Governor of the Wartheland, 12 August 1941, concerning the Germanization of Polish children.	IV, 994
NO-3076	.....Pros. Ex. 144.....	Letter of the Provincial President of Upper Silesia, 9 June 1942, concerning the Germanization of Polish families.	IV, 766
NO-3091	.....Pros. Ex. 108.....	Copy of Order, signed by Himmler, 16 February 1942, concerning Group IV of the German People's List.	IV, 728
NO-3096	.....Pros. Ex. 117.....	Memorandum signed by Mildner, 21 April 1942, concerning the punishment of members of Group III of the German People's List who refuse to render military service.	IV, 733
NO-3181	.....Pros. Ex. 312.....	Extracts from report from Greifelt to Himmler, 12 May 1943, concerning (among other subjects) compensation for confiscated Polish property and covering letter from Greifelt to Rudolf Brandt, 19 May 1943.	IV, 966
NO-3220	.....Pros. Ex. 319.....	Himmler's order, 22 September 1942, concerning punitive measures against Slovenes and their families escaping from camps in Silesia.	IV, 900
NO-3222	.....Pros. Ex. 314.....	Table of farms and estates registered and seized by the Central Land Office in the Eastern Territories, broken down by number and area, published by the Staff Main Office, RKFDV.	IV, 977
NO-3271	.....Pros. Ex. 142.....	Extract from the "Report on re-Germanization" by Haemerlein, submitted by the Race and Settlement Leader	IV, 1151

Document No.	Exhibit No.	Description	Vol-Page
		Northeast of the Chief of the RuSHA in May 1944.	
NO-3297	.....Pros. Ex. 538....	Circular from Klinger, 30 September 1944, concerning marriages of members of Group 3 of the Reich Racial Register.	IV, 1117
NO-3512	.....Pros. Ex. 492....	Letter from the Higher SS and Police Leader Southeast to the RKFDV, Katowice, 29 September 1944, concerning a pregnancy interruption.	IV, 1086
NO-3513	.....Pros. Ex. 491....	Memorandum from the Labor Office, Katowice, to the RKFDV Branch Office, Katowice, 1 August 1944, concerning interruption of pregnancy of female Eastern workers.	IV, 1085
NO-3520	.....Pros. Ex. 470....	Circular, signed by Kaltenbrunner, 9 June 1943, concerning interruption of pregnancy of female Eastern workers.	IV, 1078
NO-3531	.....Pros. Ex. 196....	Decree 34/I of the Reich Leader SS, 4 June 1941, concerning the re-Germanizing of persons of foreign nationality from Southern Carinthia and Lower Styria, and supplement of 9 June 1941, signed by Greifelt.	IV, 894
NO-3557	.....Pros. Ex. 473....	Order, signed by Hildebrandt, 13 August 1943, concerning interruption of pregnancy of Polish women.	IV, 1081
NO-3568	.....Pros. Ex. 316....	Extracts from "Brief Facts about Settlement", January 1944, regarding general information on the settlement areas annexed to and incorporated into the Greater German Reich.	IV, 938
NO-3592	.....Pros. Ex. 535....	Circular, signed by Klinger, 5 August 1944, containing decree of the Reich Ministry of Interior concerning marriages of Poles.	IV, 1114
NO-3593	.....Pros. Ex. 537....	Circular, signed by Klinger, 22 September 1944, explaining decree of the Reich Ministry of Interior (NO-3592, Pros. Ex. 535).	IV, 1115

Document No.	Exhibit No.	Description	Vol-Page
NO-3737	.....Pros. Ex. 164....	Letter to the Higher SS and Police Leader Center, 10 September 1941, concerning the Germanization of a Polish family named Fortuna.	IV, 783
NO-3996	.....Pros. Ex. 804....	Extracts from report signed by Creutz, 25 March 1943, concerning the re-Germanization of racially valuable persons.	IV, 775
NO-4059	.....Pros. Ex. 198....	Mimeographed copy of regulation, undated, entitled "General Orders and Directives of the Reich Commissioner for the Strengthening of Germanism."	IV, 874
NO-4060	.....Pros. Ex. 18.....	Extract from the table of organization of the Staff Main Office, RKFDV.	IV, 974
NO-4130	.....Pros. Ex. 601....	Service Instruction No. 38, signed by Greifelt, 12 December 1940, concerning offices competent for real estate and agricultural property.	IV, 975
NO-4171	.....Pros. Ex. 398....	Letter of reply from Sollmann to Himmler, 7 July 1943, promising transfer of Czech children to Lebensborn (See NO-4173, Pros. Ex. 397).	IV, 1030
NO-4173	.....Pros. Ex. 397....	Letter from Himmler to Sollmann, 21 June 1943, concerning children of executed members of the Czech Resistance Movement.	IV, 1029
NO-4274	.....Pros. Ex. 442....	Letter from Himmler to Lorenz, 11 July 1941, concerning the registration of ethnic Germans in the European territories of the U.S.S.R.	IV, 852
NO-4292	.....Pros. Ex. 328....	Extract from a list of VoMi concerning family members of executed and fugitive bandits from Lower Styria, camp Frohnleiten, who arrived in camp Marianum, Bamberg, 28 April 1943, and who were accommodated there.	IV, 903
NO-4370	.....Pros. Ex. 503....	Letter from the Higher SS and Police Leader in Military District XIII, to the Office for Public Welfare, NSDAP, Gau Main-Franconia [Mainfran-	IV, 1105

Document No.	Exhibit No.	Description	Vol-Page
		ken], 15 April 1944, concerning the treatment of children of foreign female workers in the Reich.	
NO-4613	.....Pros. Ex. 290....	Memorandum, signed by Himmler, 11 October 1939, concerning the deportation of Poles.	IV, 855
NO-4634	.....Pros. Ex. 514....	Memorandum of the Gestapo District Headquarters, Dueseldorf, 15 June 1944, concerning special treatment for foreign workers.	IV, 1167
NO-4672	.....Pros. Ex. 589....	Extracts from Decree, 17 September 1940, concerning the treatment of property belonging to the citizens of the former Polish State.	IV, 955
NO-4739	.....Pros. Ex. 99.....	General Directive No. 12/C, signed by Himmler, 9 February 1942, concerning the treatment of persons registered in the German People's List.	IV, 721
NO-4877	.....Pros. Ex. 660....	Letter from Creutz to Himmler, 3 July 1942, concerning the deportation of Poles and the resettlement of ethnic Germans in the Government General.	IV, 868
NO-4899	.....Pros. Ex. 413....	Application from Helena Staszewska to the Youth Office, Lodz, 22 January 1943, for return of her grandchild.	IV, 1002
NO-4903	.....Pros. Ex. 413....	Memoranda of 13 July 1943 and 10 January 1944, regarding disposition of Helena Bukowiecka.	IV, 1002
NO-5011	.....Pros. Ex. 672....	Letter from Greifelt to Heydrich, 2 September 1941, concerning the evacuation of Poles from the Incorporated Eastern Territories.	IV, 862
NO-5040	.....Pros. Ex. 333....	Circular letter signed by Greifelt, 7 July 1941, concerning the evacuation of Slovenes from South Carinthia.	IV, 897
NO-5057	.....Pros. Ex. 294....	Complaint signed by 35 German resettlers from the Ukraine, 1 May 1944, addressed to Himmler, with covering letter from Rudolf	IV, 823

Document No.	Exhibit No.	Description	Vol- Page
		Brandt to Lorenz, 12 May 1944.	
NO-5071	.....Pros. Ex. 749....	Memorandum from Wolfrum to the VoMi, attention of Bartholomaeus, 15 July 1943, concerning replacement of reports sent to Einsatzgruppe D.	IV, 853
NO-5082	.....Pros. Ex. 699....	Teletype from Brueckner to the Commander of the Security Police in Paris, 6 April 1943, concerning the deportation of Luxembourg citizens.	IV, 925
NO-5095	.....Pros. Ex. 741....	Letter from Dr. Behrends of the VoMi to Naumann, Chief of Einsatzgruppe B, 6 July 1942, concerning cooperation with Einsatzkommandos.	IV, 851
NO-5148	.....Pros. Ex. 138....	Extract from "Allocation of Manpower": Himmler Decree 17/II, 9 May 1940, concerning Polish nationals eligible for Germanization, and introductory remarks.	IV, 762
NO-5201	.....Pros. Ex. 707....	Memorandum for SS Major (F) Brueckner, 10 February 1943, concerning basic regulations regarding the treatment of the deportees from Upper Carniola.	IV, 1058
NO-5211	.....Pros. Ex. 691....	File memorandum for SS Colonel Ellermeier, 5 December 1942, concerning the deportation of Lorrainers.	IV, 917
NO-5304	.....Pros. Ex. 710....	Memorandum from Creutz to VoMi, 5 September 1942, concerning the Germanization of children from Upper Carniola and Lower Styria.	IV, 1055
NO-5306	.....Pros. Ex. 674....	Memorandum to Ellermeier (VoMi), 26 June 1942, on measures concerning the transfer of 34,000 Slovenes to the Reich.	IV, 898
NO-5311	.....Pros. Ex. 832....	Memorandum on "Immediate Reich Measures to decrease the dangers from infiltration in view of the numerous births of aliens in rural areas," 16 May 1944.	IV, 1123
NO-5322	.....Pros. Ex. 805....	Memorandum of a conference on 30 January 1940, concerning	IV, 856

Document No.	Exhibit No.	Description	Vol-Page
		the evacuation of Poles and Jews from the Warthegau.	
NO-5328	.....Pros. Ex. 830....	Memorandum from Brueckner to Lorenz, 18 March 1944, concerning the treatment of ethnic Germans from Russia.	IV, 820
NO-5332	.....Pros. Ex. 746....	Teletype message from Brueckner to Einsatzgruppe B, 3 March 1943, concerning the compulsory nature of resettlement in Russia.	IV, 818
NO-5364	.....Pros. Ex. 714....	Affidavit of Hermann A. Krume, 30 September 1947, concerning Germanization of Czech children.	IV, 1039
NO-5391	.....Pros. Ex. 791....	Report from Greifelt to Higher SS and Police Leaders, 12 December 1942, concerning the Germanization of inhabitants of the Eastern Territories.	IV, 768
NO-5395	.....Pros. Ex. 750....	Directives from Himmler to Pohl and Lorenz, 24 October 1942, concerning the delivery to ethnic Germans of consignments of clothing from Lublin and Auschwitz warehouses.	IV, 973
NO-5432	.....Pros. Ex. 790....	Letter from the Gauleiter of Upper Silesia to Greifelt, 19 January 1943, concerning the resettlement of ethnic Germans in Upper Silesia.	IV, 818
NO-5517	.....Pros. Ex. 679....	Letter from Dr. Stier to VoMi, 1 April 1943, concerning the treatment of Slovenes.	IV, 899
NO-5544	.....Pros. Ex. 856....	Circular from the Higher SS and Police Leaders in the Military Districts VII and XIII to the Regional Subprefects (Landraete), 27 June 1942, concerning the punishment of a Slovene fugitive.	IV, 902
NO-5554	.....Pros. Ex. 859....	Copy of a letter from the Higher SS and Police Leaders Southeast to the Deputy of the Reich Commissioner for the Strengthening of Germanism, 20 September 1944, incorporating letter from office of Chief of Security Police and SD, 11 September 1944, concerning the	IV, 736

Document No.	Exhibit No.	Description	Vol-Page
		execution of individuals refusing to accept German People's List identification cards.	
NO-5711	.....Pros. Ex. 866....	Memorandum, 2 February 1942, concerning Himmler's orders on deportations and resettlements.	IV, 943
NO-5829	.....Pros. Ex. 889....	Letter from Roedel to the Higher SS and Police Leader, Rhine-Westmark, 9 June 1944, concerning the case of Olga Tschuma.	IV, 1087
NO-5837	.....Pros. Ex. 846....	Duty Trip Report 13/44 by SS Sergeant Ratzeburg, 23 October 1944.	IV, 780
NO-5875	.....Pros. Ex. 880....	Extract from situation report from Mueller to Hofmann, 15 October 1941, concerning RuSHA activities in the Lublin area.	IV, 865
L-70	.....Pros. Ex. 384....	Extracts from a speech by the Reich Leader SS Himmler at Bad Schachen on 14 October 1943.	IV, 991
1470-PS	.....Pros. Ex. 275....	Memorandum on the conference on 4 August 1942 concerning guiding principles regarding the treatment of expelled Alsatians.	IV, 913
1753-PS	.....Pros. Ex. 476....	Letter of 30 October 1943, enclosing Report from the Bayreuth Branch Office of the SD to Dr. Hessler, District Officer for Public Health, 25 October 1943, concerning objections by Catholic physicians to interruptions of pregnancy of female foreign workers.	IV, 1082
1918-PS	.....Pros. Ex. 92....	Extract from Himmler's address to Party comrades, 7 September 1940.	IV, 1141
Brueckner 12..	Brueckner Ex. 12	Affidavit of Josef Altstoetter, 19 November 1947, concerning the file memorandum of the conference at the Reich Ministry of Justice on 10 March 1943 (NO-1126, Pros. Ex. 419).	IV, 1120
Creutz 17.....	Creutz Ex. 17...	Extracts from the diary of Hans Frank of the Minutes of the second conference of	IV, 890

Document No.	Exhibit No.	Description	Vol-Page
		the Department Chiefs on 8 December 1939 in Krakow.	
Greifelt 1.....	Greifelt Ex. 1...	Extract from newspaper article "United Nations Convention against Genocide", 13 July 1947, as published in Neue Zeitung.	V, 3
Greifelt 32.....	Greifelt Ex. 32..	Decree of the Fuehrer and Reich Chancellor concerning the organization and administration of the Eastern Territories, 8 October 1939. Reich Law Gazette, Part I, 1939.	IV, 754
Greifelt 33.....	Greifelt Ex. 33..	Decree of the Fuehrer and Reich Chancellor concerning the administration of the Occupied Polish Territories, 12 October 1939, Reich Law Gazette, Part I, 1939.	IV, 757
Greifelt 45.....	Greifelt Ex. 45..	Second Ordinance for the implementation and supplementing of the Decree concerning the State control of agriculture and forestry enterprises and estates in the Incorporated Eastern Territories, 1 February 1941.	IV, 849
Greifelt 56.....	Greifelt Ex. 56..	Decree concerning the procurement of land for the purpose of resettling German nationals and Germans brought from abroad, 23 March 1944.	IV, 850
Greifelt 63.....	Greifelt Ex. 63..	Official information for matters of Reich Insurance published by the Reich Ministry of Labor. Reich Labor Gazette, 1940.	IV, 759
Greifelt 83.....	Greifelt Ex. 83..	Extract from "Commentary on the German civil servants' law of 26 January 1937," entitled "Limits to the duty of obedience."	V, 28
Greifelt 85.....	Greifelt Ex. 85..	Extract from "Commentary on the German civil servants' law of 26 January 1937," entitled "Examples of actions in violation of duty".	V, 28
Greifelt 98.....	Greifelt Ex. 98..	Official correspondence concerning the significance of the collapse of the Polish State from the point of view of international law.	V, 19

Document No.	Exhibit No.	Description	Vol-Page
Hildebrandt 82.	Hildebrandt		
	Ex. 10.....	Copy of official German statement on the German-Soviet Russian resettlement agreement of 3 November 1939.	IV, 837
Hildebrandt 83.	Hildebrandt		
	Ex. 11.....	Copy of German-Soviet Russian agreement of 5 September 1940 on resettlement of the racial German population from the Territory of Bessarabia and Northern Bukovina to the German Reich.	IV, 838
Hildebrandt 86.	Hildebrandt		
	Ex. 14.....	Copy of Agreement of 10 January 1941 between the Government of the German Reich and the Government of the U.S.S.R., relative to the resettlement of Germans, Lithuanians, and Russians.	IV, 840
Hildebrandt 87.	Hildebrandt		
	Ex. 15.....	Copy of Agreement of 10 January 1941 between the Government of the German Reich and the Government of the U.S.S.R., relative to the resettlement of Germans, Latvians and Esthonians.	IV, 842
Hildebrandt 111	Hildebrandt Ex. 41.....	Correspondence concerning the requested interruption of pregnancy of a female Polish worker.	IV, 1098
Hildebrandt 112	Hildebrandt Ex. 42.....	Circular, 5 April 1943, containing the decree of Reich Health Leader Dr. Conti, concerning the interruption of pregnancy of female Eastern workers.	IV, 1095
Hofmann 54...	Hofmann Ex. 61.	Extract from "Information Service of the Racial-Political Office of the NSDAP Reich Administration", 30 July 1937, concerning race protection laws of other countries.	IV, 1159
Hofmann 55...	Hofmann Ex. 62.	Extract entitled, "A Stroll Through the History of the Nations", from "Blood and Race in Legislation".	IV, 1164

Document No.	Exhibit No.	Description	Vol-Page
Hofmann 63...	Hofmann Ex. 69.	Circular Decree of the Reich Leader SS and Chief of the German Police in the Reich Ministry of the Interior, 18 July 1942, concerning treatment of workers.	IV, 1165
Hofmann 67...	Hofmann Ex. 73.	Extracts from circularized decree, 4 May 1943, concerning streamlining of protective custody procedures.	IV, 1168
Hofmann 75...	Hofmann Ex. 80.	Decree for the protection of wedlock, family and motherhood, by Ministerial Councilor Tietzsch in the Reich Ministry of Justice.	IV, 1096
Hofmann 77...	Hofmann Ex. 81.	Order of the Supreme Commander, Allied Expeditionary Forces, 12 September 1944, concerning relationship between Allied Occupying Troops and Inhabitants of Germany.	IV, 1161
Hofmann 84...	Hofmann Ex. 84.	Extract from "Allocation of Manpower": Ordinances and Directives concerning the Germanization of Polish families.	IV, 812
Hofmann 87...	Hofmann Ex. 87.	Extract from "Allocation of Manpower", September 1941; Memorandum for Plant Leaders concerning the utilization of persons suitable for re-Germanization.	IV, 813
Lorenz 8.....	Lorenz Ex. 13...	Affidavit of Josef Wolkerstorfer, 5 November 1947.	IV, 846
Lorenz 51.....	Lorenz Ex. 26...	Affidavit of Otto Ohlendorf, 9 December 1947, concerning the tasks of the Einsatzgruppen with respect to ethnic Germans in the U.S.S.R.	IV, 854
Lorenz 63.....	Lorenz Ex. 66...	Extract from the affidavit of Franz Rech, 4 December 1947.	IV, 849
Lorenz 67.....	Lorenz Ex. 63...	Extract from the affidavit of Else Winger, 2 January 1948.	IV, 848
Meyer-Hetling 83	Meyer-Hetling Ex. 83.....	Affidavit of Heinz Fiedler, 22 October 1947, concerning the authority of the Central Land Office.	IV, 989
Meyer-Hetling 85	Meyer-Hetling Ex. 85.....	Affidavit of Walter Gerlach, 3 November 1947, concerning Meyer-Hetling's activities.	IV, 988

Document No.	Exhibit No.	Description	Page
Schwalm 103..	Schwalm Ex. 103	Extract from the affidavit of Kurt Stoll, 11 December 1947, concerning voluntary interruption of pregnancy of female Eastern workers.	IV, 1097
Schwalm 126..	Schwalm Ex. 126	Extract from "Testimony of the Times" from the History of the East.	V, 6
Schwalm 143..	Schwalm Ex. 143	Extract from "Allocation of Manpower": Ordinances and Directives concerning the allocation to Germany of persons eligible for Germanization.	IV, 815
Sollmann 34...Sollmann	Ex. 3(8).....	Affidavit of August Meine, 28 November 1947, concerning the Lebensborn Home for Eastern workers.	IV, 1111
Sollmann 53...Sollmann	Ex. 6(3).....	Affidavit of Udo von Woyrsch, 7 January 1948, concerning Sollmann's activities.	IV, 1046
Sollmann 117..Sollmann	Ex. 10(16)....	Letter to Frau Malisch from the Chief of Main Department A, Lebensborn, 23 May 1943, concerning her foster child.	IV, 1073

TESTIMONIES

	Volume	Page
Extract from the testimony of defense witness Herbert Aust	IV,	1133
Extract from the testimony of defense witness Bartels	IV,	1047
Extract from the testimony of defense witness Bergner	IV,	1022
Extracts from the testimony of defense witness Berthold Willy Bethge	IV,	799
Extract from the testimony of prosecution witness Brieder	IV,	1088
Extract from the testimony of defendant Brueckner..	IV,	844, 1128
Extract from the testimony of defendant Creutz.....	IV,	882, 904, 932
Extract from the testimony of prosecution witness Ehlich	IV,	892
Extract from the testimony of defense witness Golling..	IV,	887
Extract from the testimony of defense witness Siegfried Golling	IV,	985
Extract from the testimony of defense witness Graebe..	IV,	1017

	Volume Page
Extracts from the testimony of defendant Ulrich Greifelt	IV, 741, 790, 1174
Extracts from the testimony of defense witness Hermann Grotz	IV, 801
Extract from the testimony of prosecution witness Hanfova	IV, 1034
Extract from the testimony of defendant Hildebrandt..	IV, 830, 1091, 1110, 1172, 1182
	V, 18
Extract from the testimony of defendant Hofmann....	IV, 1179
Testimony of prosecution witness Hoppe.....	IV, 1107
Extracts from the testimony of defense witness Kling-sporn	IV, 906
Extract from the testimony of prosecution witness Krumey	IV, 1053
Extract from the testimony of defense witness Kubitz..	IV, 936
Extract from the testimony of prosecution witness Lavitan	IV, 991
Extract from the testimony of defense witness Reinhold Lorenz	IV, 1130
Extract from the testimony of defendant Lorenz.....	IV, 1177
Testimony of prosecution witness Rudolf Meyer.....	IV, 1106
Extract from the testimony of defendant Meyer-Hetling	IV, 983, 1176
Extract from the testimony of prosecution witness Paczesny	IV, 1103
Extract from the testimony of defense witness Pancke..	IV, 1166
Extract from the testimony of defense witness Radusch	IV, 1112
Extract from the testimony of defendant Schwalm....	IV, 1099, 1169
Extract from the testimony of defendant Sollmann....	IV, 1041, 1184
Extracts from the testimony of defense witness Stier..	IV, 925, 944
Extract from the testimony of prosecution witness Sydower	IV, 1135
Extract from the testimony of prosecution witness Uebe	IV, 1061
Extract from the testimony of defendant Viermetz....	IV, 1065
Extracts from the testimony of prosecution witness Kuno Wirsich	IV, 714
Extract from the testimony of defense witness Elli Wolfgramm	IV, 808

"The Pohl Case"

MILITARY TRIBUNAL NO. II

CASE 4

THE UNITED STATES OF AMERICA

against

OSWALD POHL, AUGUST FRANK, GEORG LOERNER, HEINZ KARL
FANSLAU, HANS LOERNER, JOSEF VOGT, ERWIN TSCHENTSCHER,
RUDOLF SCHEIDE, MAX KIEFER, FRANZ EIRENSCHMALZ, KARL
SOMMER, HERMANN POOK, HANS HEINRICH BAIER, HANS HOH-
BERG, LEO VOLK, KARL MUMMENTHEY, HANS BOBERMIN, and
HORST KLEIN, *Defendants*

INTRODUCTION

The "Pohl Case" was tried at the Palace of Justice in Nuernberg before Military Tribunal II. The Tribunal convened 194 times, and the duration of the trial is shown by the following schedule:

Indictment filed	13 January 1947
Indictment served	13 January 1947
Arraignment	10 March 1947
Prosecution opening statement	8 April 1947
Defense opening statements	14-15 May 1947
Prosecution closing statement	17 September 1947
Defense closing statements	17-20 September 1947
Final statements of defendants	22 September 1947
Judgment	3 November 1947
Sentences	3 November 1947
Concurring opinion of Judge Musmanno (Filed)	3 November 1947
Order of the Military Governor reconvening Military Tribunal II	7 June 1948
Order of the Tribunal permitting the defendants to file additional briefs	14 July 1948
Supplemental judgment	11 August 1948
Confirmation and revision of sentences by the Military Governor	30 April, 11 May 1949
Order of the United States Supreme Court denying writ of habeas corpus on behalf of all defendants	2 May 1949

The English transcript of the Court proceedings runs to 8,461 mimeographed pages. The prosecution introduced into evidence 734 written exhibits (some of which contained several documents), and the defense 614 written exhibits. The Tribunal heard oral testimony of 21 witnesses called by the prosecution; of 27 witnesses, excluding the defendants, called by the defense; and of one witness called by the Tribunal. Each of 18 defendants testified in his own behalf, and each was subject to examination on behalf of other defendants. The exhibits offered by both the prosecution and defense contained documents, photographs, affidavits, interrogatories, letters, maps, charts, and other written evidence. The prosecution introduced 95 affidavits; the defense

416 affidavits. The prosecution called no defense affiants for cross-examination; the defense called 3 prosecution affiants for cross-examination. The Tribunal was in recess between 25 April 1947 and 14 May 1947 to give the defense additional time to prepare its case.

The members of the Tribunal and prosecution and defense counsel are listed on the ensuing pages. Prosecution counsel were assisted in preparing the case by Walter Rapp (Chief of the Evidence Division), Erik J. Ortmann, Kurt Ponger, Larry L. Wolff, interrogators, and Paul S. Siebenschein, Howell Webb, Hans J. Wolffsohn, and Frank Young, research and documentary analysts.

Selection and arrangement of the "Pohl Case" material published herein was accomplished principally by Jack W. Robbins and James R. Higgins, working under the general supervision of Drexel A. Sprecher, Deputy Chief Counsel and Director of Publications, Office U.S. Chief of Counsel for War Crimes. Henry Buxbaum, and Paul H. Gantt, assisted in selecting, compiling, editing, and indexing the numerous papers.

John H. E. Fried, Special Legal Consultant to the Tribunals, reviewed and approved the selection and arrangement of the materials as the designated representative of the Nuernberg Tribunals.

Final compilation and editing of the manuscript for printing was administered by the War Crimes Division, Office of The Judge Advocate General, under the direct supervision of Richard A. Olbeter, Chief, Special Projects Branch, with Alma Soller as editor, Amelia Rivers as assistant editor and John W. Mosenthal as research analyst.

ORDER CONSTITUTING TRIBUNAL II

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
APO 742

GENERAL ORDERS }
No. 85 }

16 December 1946

Pursuant to Military Government Ordinance No. 7

1. Effective as of 14 December 1946, pursuant to Military Government Ordinance No. 7, 24 October 1946, entitled "Organization and Powers of Certain Military Tribunals", there is hereby constituted, Military Tribunal II.

2. The following are designated as members of Military Tribunal II:

ROBERT M. TOMS	Presiding Judge
FITZROI D. PHILLIPS *	Judge
MICHAEL A. MUSMANNO	Judge
JOHN J. SPEIGHT	Alternate Judge

3. The Tribunal shall convene at Nurnberg, Germany, to hear such cases as may be filed by the Chief of Counsel for War Crimes or by his duly designated representative.

BY COMMAND OF LIEUTENANT GENERAL CLAY:

OFFICIAL:

C. K. GAILEY
Brigadier General, GSC
Chief of Staff

Seal: Office of Military Government
for Germany (U.S.)

[Signed] G. H. GARDE
G. H. GARDE
Lieutenant Colonel, AGD
Adjutant General

DISTRIBUTION: "B" plus
2- AG MRU USFET

* General Order No. 5, OMGUS, 21 January 1947, corrected spelling to Fitzroy D. Phillips.

MEMBERS OF MILITARY TRIBUNAL II

ROBERT M. TOMS, Presiding.
Judge of the Third Judicial Circuit Court, Detroit, Michigan.

FITZROY D. PHILLIPS, Member.
Judge of the Superior Court for the 13th Judicial District of the State of North Carolina.

MICHAEL A. MUSMANNO, Member.
United States Naval Reserve, on military leave from Court of Common Pleas, Allegheny County, Pennsylvania.

JOHN J. SPEIGHT, Alternate.
Prominent member of the Bar of the State of Alabama.

ASSISTANT SECRETARIES GENERAL

MAJOR MILLS C. HATFIELD.....From 8 April 1947 to 17 June 1947
MR. J. C. KNAPP.....From 18 June 1947 to 3 November 1947

PROSECUTION COUNSEL *

Chief of Counsel:
BRIGADIER GENERAL TELFORD TAYLOR

Chief, SS Division:
JAMES M. MCHANEY

Chief Prosecutor:
JACK W. ROBBINS

Associate Counsel:
BAUCOM FULKERSON
HANS FROELICH
WILLIAM I. HART
JAMES R. HIGGINS
JULIUS I. RUDOLPH, JR.
PETER W. WALTON

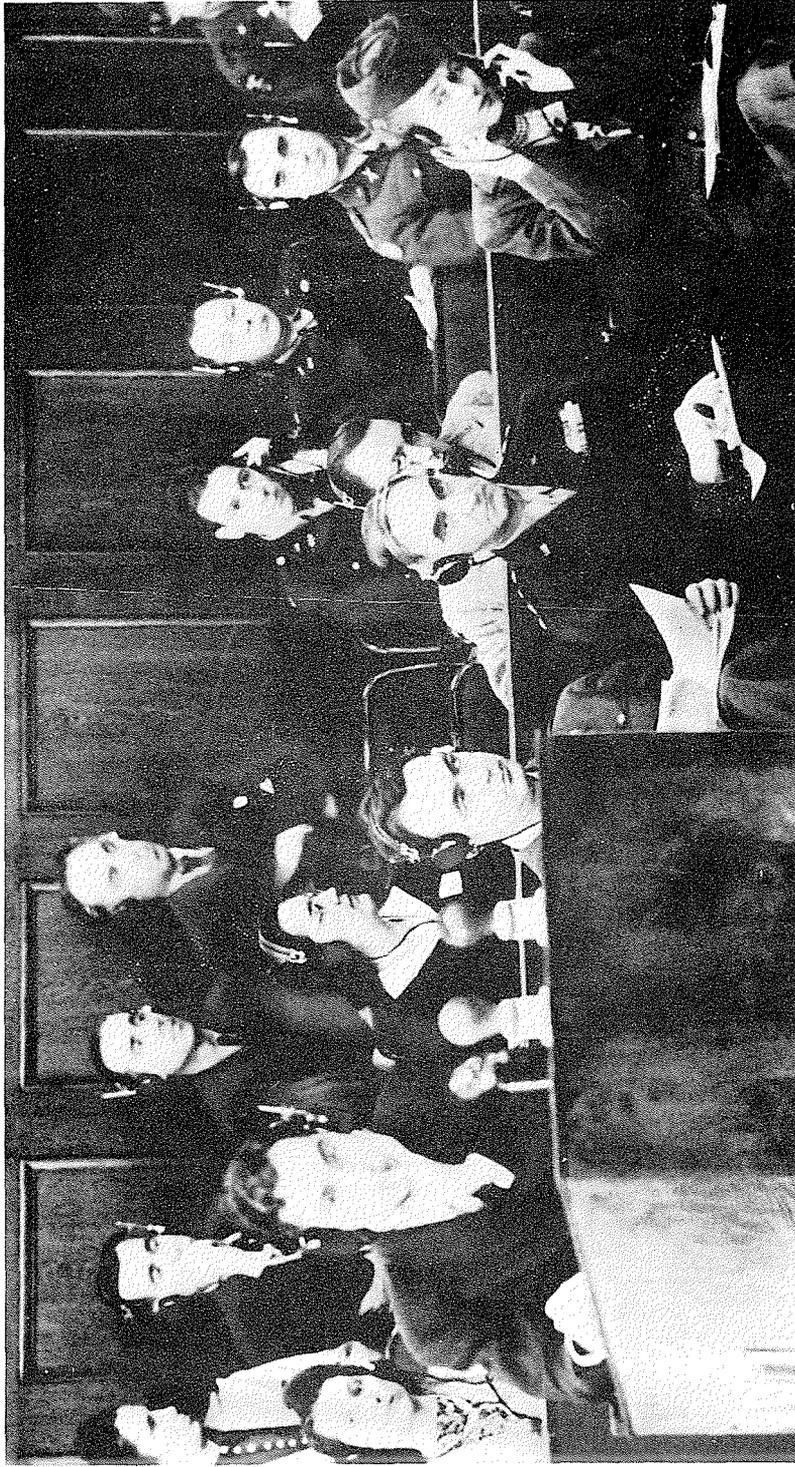
Assistant Counsel:
KURT PONGER

* Only those members of prosecution counsel who spoke before the Tribunal are listed. Daniel J. Schiller, Deputy Director of the SS Division, Office, Chief of Counsel for War Crimes, and Larry L. Wolff were also active in the preparation of the case for trial.

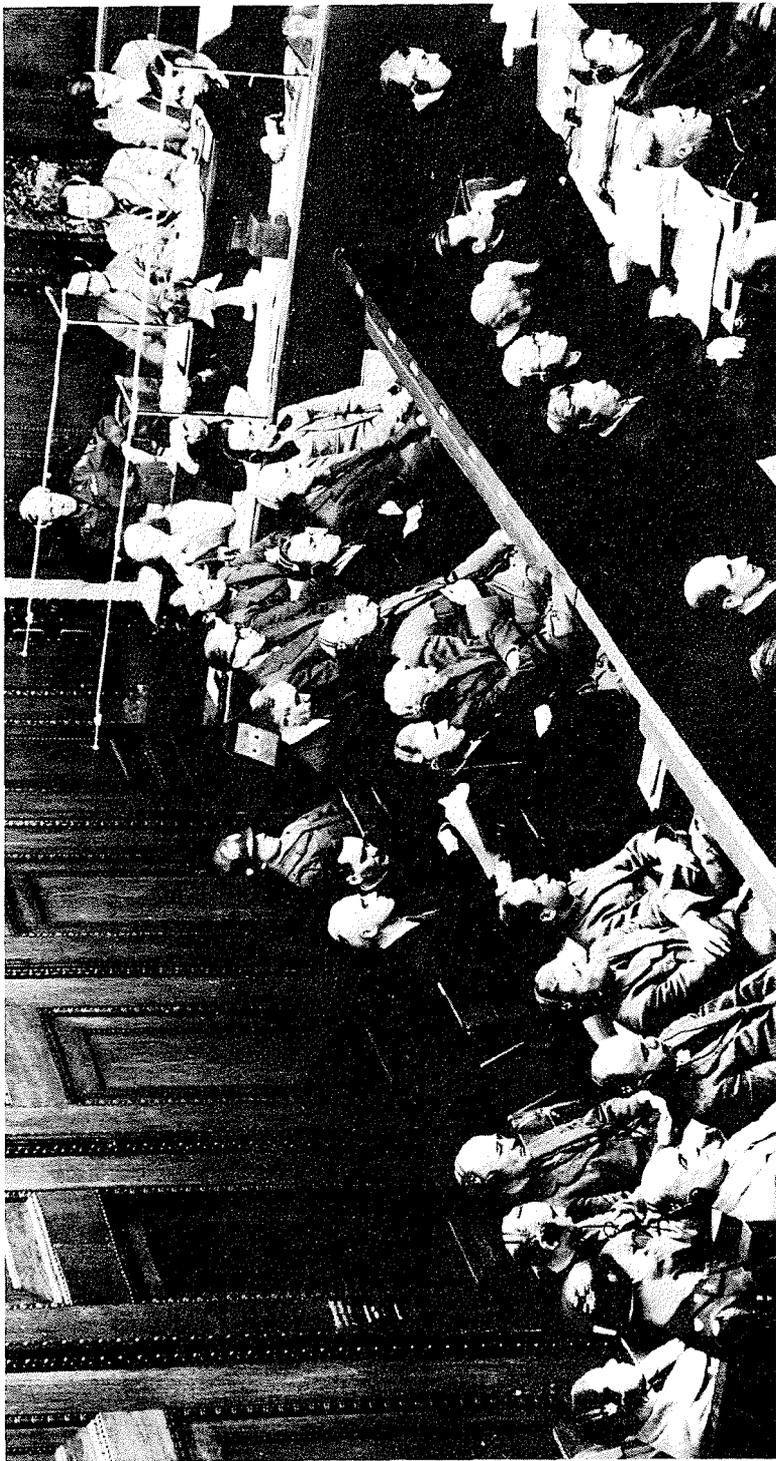


TRIBUNAL II—CASE FOUR

F. Donald Phillips; Robert M. Toms, presiding; Michael A. Musmanno; John J. Speight, alternate.



General Lucius D. Clay, Commanding General European Command observing the trial. He is flanked by Mrs. Clay and Brigadier General Telford Taylor, U. S. Chief of Counsel. On the left at rostrum is Mr. James McHaney, Chief, SS Division in charge of prosecution for the case.



Defendants and defense counsel at arraignment. Defendants are, left to right, (front row) Oswald Pohl, August Frank, Georg Loerner, Heinz Fanstlat, Hans Loerner, Joseph Vogt, Erwin Tschentscher, Rudolf Scheide, Max Kiefer, Franz Eivenschmalz, (back row) Karl Sommer, Hermann Pook, Hans Baier, Hans Hoberg, Leo Volk, Karl Mumenthey, Hans Bohermin, Horst Klein.

DEFENSE COUNSEL

<i>Defendants</i>	<i>Defense Counsel</i>	<i>Associate Defense Counsel</i>
POHL, OSWALD...	DR. ALFRED SEIDL.....	DR. GEORG GIERL
FRANK, AUGUST..	DR. GERHARD RAUSCHENBACH..	JOHANN SCHAETZLER
LOERNER, GEORG..	DR. CARL HAENSEL.....	DR. HEINZ MUELLER-TORGOW
FANSLAU, HEINZ KARL...	DR. CURT-FERDINAND VON STAKELBERG	
LOERNER, HANS..	DR. GERHARD RAUSCHENBACH..	JOHANN SCHAETZLER (to 15 June 1948)
	DR. WILHELM SCHMIDT..... (from 15 June 1948)	
VOGT, JOSEF.....	DR. WILHELM SCHMIDT.....	
TSCHECHTSCHER, ERWIN	DR. HANS PRIBILLA.....	HELMUT EISENBLAETTER
SCHEIDE, RUDOLF.	DR. KARL HOFFMANN.....	
KIEFER, MAX....	DR. ERICH MAYER.....	DR. FERDINAND LEIS
EIRENSCHMALZ FRANZ	DR. BOLKO VON STEIN.....	DR. OSKAR VON JAGWITZ (to 16 July 1948)
	DR. ROBERT SERVATIUS..... (from 16 July 1948)	
SOMMER, KARL...	DR. EDUARD BELZER.....	DR. JOSEPH MAYER (to 17 August 1948)
	DR. KARL HOFFMANN..... (from 17 August 1948)	
POOK, HERMANN.	DR. PAUL RATZ.....	
BAIER, HANS....	DR. STEFAN FRITSCH.....	DR. GEORG MENZEL (to 2 July 1948)
	DR. GEORG MENZEL.....	DR. OSKAR VON JAGWITZ (from 2 July 1948)
HOBBERG, HANS..	DR. WILLI HEIM.....	DR. WILHELM MAAS (to 29 June 1948)
	DR. ERNST SCHULTE..... (from 29 June 1948)	
VOLK, LEO.....	DR. HANS GAWLIK.....	DR. GERHARD KLINNERT (to 30 June 1948)
	DR. GERHARD KLINNERT..... (from 30 June 1948)	
MUMMENTHEY, KARL	DR. GEORG FROESCHMANN....	DR. KARL PRACHT
BOBERMIN, HANS	DR. HANS GAWLIK.....	DR. GERHARD KLINNERT
KLEIN, HORST...	DR. FRIEDRICH BERGOLD.....	DR. OSKAR FICHT

I. INDICTMENT

The United States of America, by the undersigned Telford Taylor, Chief of Counsel for War Crimes, duly appointed to represent said Government in the prosecution of war criminals, charges that the defendants herein participated in a common design or conspiracy to commit and did commit war crimes and crimes against humanity, as defined in Control Council Law No. 10, duly enacted by the Allied Control Council on 20 December 1945. These crimes included murders, brutalities, cruelties, tortures, atrocities, deportations, enslavement, forced labor, plunder of property, and other inhumane and unlawful acts, as set forth in counts one, two, and three of this indictment. All but one of the defendants herein are further charged with membership in a criminal organization; as set forth in count four of this indictment.

The persons accused as guilty of these crimes and accordingly named as defendants in this case are—

OSWALD POHL—Obergruppenfuehrer in the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the "SS") and General of the Waffen SS (Lieutenant General); Chief of the SS Economic and Administrative Main Department [Office] (SS Wirtschafts—und Verwaltungshauptamt, commonly known as "WVHA") and chief of Division W of the WVHA.

AUGUST FRANK—Obergruppenfuehrer in the SS and General of the Waffen SS (Lieutenant General); Deputy Chief of the WVHA and chief of Division A of the WVHA.

GEORG LOERNER—Gruppenfuehrer in the SS and Generalleutnant of the Waffen SS (Major General); Deputy Chief of the WVHA, chief of Division B of the WVHA, and deputy chief of Division W of the WVHA.

HEINZ KARL FANSLAU—Brigadefuehrer in the SS and Generalmajor of the Waffen SS (Brigadier General); chief of Division A of the WVHA.

HANS LOERNER—SS Oberfuehrer (Senior Colonel) and chief of Office I of Division A of the WVHA.

JOSEF VOGT—SS Standartenfuehrer (Colonel) and chief of Office IV of Division A of the WVHA.

ERWIN TSCHENTSCHER—SS Standartenfuehrer (Colonel); deputy chief of Division B and chief of Office I of Division B of the WVHA.

RUDOLF SCHEIDE—SS Standartenfuehrer (Colonel) and chief of Office V of Division B of the WVHA.

MAX KIEFER—SS Obersturmbannfuehrer (Lieutenant Colonel) and chief of Office II of Division C of the WVHA.

FRANZ EIRENSCHMALZ—SS Standartenfuehrer (Colonel) and chief of Office VI of Division C of the WVHA.

KARL SOMMER—SS Sturmbannfuehrer (Major) and deputy chief of Office II of Division D of the WVHA.

HERMANN POOK—Obersturmbannfuehrer (Lieutenant Colonel) of the Waffen SS and chief dentist of the WVHA, of Office III, Division D.

HANS HEINRICH BAIER—SS Oberfuehrer (Senior Colonel) and Amtschef Stab (executive officer) of Division W of the WVHA.

HANS HOHBERG—Amtschef Stab (executive officer) of Division W of the WVHA.

LEO VOLK—SS Hauptsturmfuehrer (Captain), personal adviser (Persoenlicher Referent) on Pohl's staff, and head of legal section (Leiter der Rechtsabteilung) in the executive office of Division W of the WVHA.

KARL MUMMENTHEY—SS Obersturmbannfuehrer (Lieutenant Colonel) and chief of Office I of Division W of the WVHA.

HANS BOBERMIN—SS Obersturmbannfuehrer (Lieutenant Colonel) and chief of Office II of Division W of the WVHA.

HORST KLEIN—SS Obersturmbannfuehrer (Lieutenant Colonel) and chief of Office VIII of Division W of the WVHA.

COUNT ONE—THE COMMON DESIGN OR CONSPIRACY

1. Between January 1933 and April 1945 all of the defendants herein, acting pursuant to a common design, unlawfully, wilfully, and knowingly did conspire and agree together and with each other and with divers other persons, to commit war crimes and crimes against humanity, as defined in Control Council Law No. 10, Article II.

2. Throughout the period covered by this indictment all of the defendants herein, acting in concert with each other and with others, unlawfully, wilfully, and knowingly were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of war crimes and crimes against humanity.

3. It was a part of the said common design, conspiracy, plans, and enterprises—

a. To formulate and carry out ways and means for financing the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpar-

tei (commonly known as the "SS") and each of its various purposes, functions, activities and enterprises.

b. To establish, maintain, operate, and administer throughout Germany and other countries concentration camps and labor camps in which thousands of persons, including prisoners of war, German civilians, and nationals of other countries, were unlawfully imprisoned, enslaved, tortured, and murdered.

c. To formulate and carry out plans to supply the labor and services of the inmates of concentration camps to various industries, enterprises, and undertakings throughout Germany and other countries.

d. To furnish human subjects for criminal medical, surgical, and biological experimentation and to assist in formulating and carrying out the plans for such unlawful experiments.

e. To carry out the policies and purposes of the German Reich with reference to the extermination of the Jews.

f. To carry out the policies and purposes of the German Reich with reference to the sterilization and castration of certain groups of peoples.

g. To carry out the policies and purposes of the German Reich with reference to the unlawful treatment of prisoners of war.

h. To carry out the so-called "euthanasia" program of the German Reich; and

i. To deport the citizens of countries occupied by the armed forces of the German Reich, plundering their property and impressing their services and labor for the German Reich.

4. Throughout the period covered by this indictment all of the defendants herein were associated with the Economic and Administrative Main Department [Main Office] (Wirtschafts- und Verwaltungshauptamt, commonly known as the "WVHA"), which was one of the twelve main departments of the SS.

5. The defendant Oswald Pohl was the head of the WVHA and the defendants August Frank and Georg Loerner were his deputies. The WVHA was divided into Amtsgruppen (office groups or divisions), which were interrelated in their operations, purposes, and functions.

6. Amtsgruppe A, among other things, discharged the responsibility for financial matters of the SS, including those relating to its concentration camps. This Amtsgruppe was subdivided into five offices or Aemter, which were charged with responsibility for certain parts of the entire financial administration. The defendants August Frank and Heinz Karl Fanslau were, successively, heads of Amtsgruppe A. The defendants Hans Loerner, August Frank, Josef Vogt, and Heinz Karl Fanslau were heads of offices or Aemter within this Amtsgruppe A.

7. Amtsgruppe B, among other things, was responsible for the supply of food and clothing for inmates of the concentration camps, and of food, uniforms, equipment, billets, and camp quarters for the members of the SS. It was subdivided into five offices or Aemter. The defendant Georg Loerner was the chief of Amtsgruppe B, and the defendant Erwin Tschentscher was his deputy and chief of one of the offices or Aemter within this Amtsgruppe B. The defendant Rudolf Scheide was head of an office or Amt within this Amtsgruppe B.

8. Amtsgruppe C, among other things was charged with the construction and maintenance of houses, buildings, and structures of the SS, the German police, and of the concentration camps and prisoner of war camps. It was subdivided into six offices or Aemter. The defendants Max Kiefer and Franz Eirenschmalz were heads of Aemter or offices within this Amtsgruppe C.

9. Amtsgruppe D, which prior to March 1942 was known as the Inspectorate of Concentration Camps, was responsible, among other things, for the administration of the concentration camps and of the concentration camp inmates. It was responsible for the food, clothing, housing, sanitation, and medical care of the concentration camp inmates, and of the order, discipline, and regulation of the lives of the inmates. It was charged with the supply of the forced services and labor of the concentration camp inmates to public and private employers throughout Germany and the occupied countries. It was subdivided into six offices or Aemter. The defendant Karl Sommer was the deputy chief of one of the offices or Aemter of Amtsgruppe D, responsible for the supply of the services and labor of concentration camp inmates. The defendant Hermann Pook was in charge of matters relating to dentistry affecting the concentration camp inmates.

10. Amtsgruppe W, among other things, was responsible for the operation and maintenance of various industrial, manufacturing, and service enterprises throughout Germany and the occupied countries. It was also responsible for providing clothing for concentration camp inmates. In the operation of the enterprises under its control, this Amtsgruppe employed many concentration camp inmates. It was subdivided into eight offices or Aemter. The defendant Oswald Pohl was the head of Amtsgruppe W, the defendant Georg Loerner was his deputy, and the defendants Hans Hohberg and Hans Baier were his executive assistants. The defendant Leo Volk was personal adviser on the staff of Oswald Pohl and head of the legal section of the executive office of Amtsgruppe W; and the defendants Karl Mummmenthey, Hans Bobermin, and Horst Klein were heads of offices or Aemter within this Amtsgruppe.

11. All of the defendants herein, acting in concert with each other and with others, unlawfully, wilfully, and knowingly participated as leaders, organizers, instigators, and accomplices in the formulation and execution of the said common design, conspiracy, plans, and enterprises to commit, and which involved the commission of war crimes and crimes against humanity and accordingly are individually responsible for their own acts and for all acts performed by any person or persons in execution of the said common design, conspiracy, plans, and enterprises.

12. The said common design, conspiracy, plans, and enterprises embraced the commission of war crimes and crimes against humanity, as set forth in counts two and three of this indictment, in that the defendants unlawfully, wilfully, and knowingly encouraged, aided, abetted, and participated in the commission of atrocities and offenses against persons and property, including plunder of public and private property, murder, extermination, enslavement, deportation, unlawful imprisonment, torture, and persecutions on political, racial, and religious grounds, ill-treatment of, and other inhumane and unlawful acts against thousands of persons, including German civilians, nationals of other countries, and prisoners of war.

COUNT TWO—WAR CRIMES

13. Between September 1939 and April 1945 all of the defendants herein unlawfully, wilfully, and knowingly committed war crimes, as defined by Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of atrocities and offenses against persons and property, including, but not limited to, plunder of public and private property, murder, torture; illegal imprisonment, and enslavement and deportation to slave labor of, and brutalities, atrocities, and other inhumane and criminal acts against thousands of persons. These crimes embraced, but were not limited to, the particulars set out in paragraphs 4 to 10, inclusive, of this indictment, which are incorporated herein by reference and the acts charged in paragraphs 14 to 22, inclusive, and were committed against the civilian populations of occupied territories and prisoners of war.

14. The concentration camps were the principal means through which the defendants committed the crimes charged. The WVHA took over jurisdiction of the concentration camps in Germany and the occupied countries and territories in the spring of 1942, and

was charged with their operation, maintenance, and administration, and the establishment of new concentration camps. It was responsible for the food, clothing, housing, sanitation, and medical care of the inmates; for the order, regulations, and discipline of their lives; and had power to exact the death penalty for infraction of its rules.

15. The WVHA discharged the responsibility for the supply of the forced labor and services of concentration camp inmates and the allotment of such supply to public and private employers throughout Germany and the occupied countries and territories. It also forced thousands of concentration camp inmates and other persons into employment in the various industrial, and commercial enterprises which it operated.

16. The established policy of the WVHA was to extract from the inmates of the concentration camps the greatest possible amount of work with the smallest possible amount of food, clothing, housing, sanitation, medical, and surgical services, and other necessary provisions or facilities. This policy resulted, foreseeably, in the deaths of thousands of people from disease or sheer physical exhaustion. For the vast majority of inmates, there was no provision for eventual release from the concentration camps, except through death, and little or no provision or plan for sustaining life in those incapable of work. Epidemics of disease were treated by killing those afflicted. As a result of this policy, the disposal of bodies of the dead became a problem of insurmountable proportions.

17. Concentration camp inmates were transported from one camp to another as the demands for labor and other circumstances might require. Thousands died on these transports from overcrowding, suffocation, hunger, thirst, cold, disease, physical exhaustion, and treatment by the SS guards. They were often forced to march long distances in cold weather with inadequate shoes and clothing.

18. The murders, torture, and ill-treatment charged were carried out by the defendants by divers methods, including gassing, shooting, hanging, whipping, beating, gross overcrowding, systematic undernourishment, systematic imposition of labor tasks beyond the strength of those ordered to carry them out; medical, surgical, and biological experimentation on involuntary human subjects; criminal sterilization and castration of involuntary human subjects; inadequate provision of surgical and medical services; inadequate clothing, housing and sanitation, exposure to cold, overwork, and grossly inadequate facilities for transporting persons to and from concentration camps and labor camps.

19. In Poland, Russia, and other countries the defendants as-

sisted in planning and carrying out the plunder, spoliation, and confiscation of real and personal property of Jewish, Russian, Polish and other private owners, of churches, communities, towns, cities, and states, the deportation to slave labor and other purposes of civilians there resident, and the resettlement of such regions by peoples asserted by the Nazis to be Aryans. The defendants systematically confiscated the personal property of living and deceased inmates of concentration camps.

20. Civilians and prisoners of war from all the countries of Europe were deported from their homelands and herded into the concentration camps, some of which were fitted with special installations such as gas-chambers and sealed busses, for their mass execution. Countless Jews, Poles, and Russians, upon their arrival into the concentration camps, were immediately driven from the transport trains and trucks into the waiting gas-chambers, where they were exterminated. Throughout the administration of the concentration camps, the worst treatment was systematically given Jews of all nationalities and Poles and Russians.

21. The defendants assisted in planning and carrying out plans for the subjugation and extermination of entire "races" and nationalities considered inferior by the Nazi hierarchy. Clergymen, attorneys, intellectuals, and other persons were hunted down and transported to the concentration camps, where they were subjected to a calculated process of murder, torture, and ill-treatment which the defendants perfected and were ever ready to administer. Experiments were carried out to determine how most efficiently to use the labor and services of the living members of undesired "races" and nationalities and to insure that such persons would be unable to propagate their kind. Inmates of concentration camps were forced to undergo castration, sterilization, and to submit to experiments whose purpose was to ascertain a method by which mass sterilization of "undesirable persons" might be effected. Countless persons, including nationals of occupied territories, were murdered in the so-called "euthanasia" program of the German Reich.

22. The defendants assisted in planning and carrying out medical, surgical, and biological experiments upon hundreds of involuntary human subjects without regard to the lives of such subjects, resulting in the murder, torture, and ill-treatment of hundreds of persons.

23. The said war crimes constitute violations of international conventions, particularly Articles 3-7, 14, 18, 23, 43, 46, 50, 52, 55, and 56 of the Regulations respecting the laws and customs of war on land, annexed to the Hague Convention of October 18, 1907, and Articles 2-4, 6, 8-17, 23-31, 33, 34, 36, 42, 46-48,

50, 51, 54, 56, 57, 60, 62, 63, 65-68, 76, and 77 of the Prisoners of War Convention (Geneva, 1929), the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and were declared, recognized, and defined as crimes by Article II of Control Council Law No. 10.

COUNT THREE—CRIMES AGAINST HUMANITY

24. Between September 1939 and April 1945 all of the defendants herein unlawfully, wilfully, and knowingly committed crimes against humanity as defined by Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, illegal imprisonment, torture, persecution on political, racial, and religious grounds, and ill-treatment of, and other inhumane and criminal acts against thousands of persons. These crimes embraced, but were not limited to, the particulars set out in paragraphs 4 to 10, inclusive, and the acts charged in paragraphs 14 to 22, inclusive, of this indictment, which are incorporated herein by reference, and were committed against German civilians and nationals of other countries.

25. The said crimes against humanity constitute violations of international conventions, including the Articles of the Hague Regulations, 1907, and of the Prisoners of War Convention (Geneva, 1929) enumerated in paragraph 23 of this indictment, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and were declared, recognized and defined as crimes by Article II of Control Council Law No. 10.

COUNT FOUR—MEMBERSHIP IN CRIMINAL ORGANIZATION

26. All of the defendants herein, except defendant Hohberg, are charged with membership, subsequent to September 1, 1939, in the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the "SS"), declared to be criminal by the International Military Tribunal and paragraph 1 (d) Article II of Control Council Law No. 10.

Wherefore, this indictment is filed with the Secretary General of the Military Tribunal and the charges herein made against the above-named defendants are hereby presented to the Military Tribunal.

TELFORD TAYLOR
Brigadier General, U. S. Army
Chief of Counsel for War Crimes
Acting on Behalf of the United States
of America

Nuernberg, 13 January 1947

II. ARRAIGNMENT

Extract from transcript of Military Tribunal II, Case 4, in the matter of the *United States of America vs. Oswald Pohl, et al.*, defendants, sitting at Nuernberg, Germany, on 10 March 1947, Judge Toms presiding.

PRESIDING JUDGE TOMS: There is before the Tribunal Case 4, United States of America against Oswald Pohl and others. The chief of counsel will read the indictment. It might be better to ascertain that all the defendants named in the indictment are present.

THE MARSHAL: May it please your Honor, all the defendants are present in the courtroom.

[At this point, Mr. McHaney read the indictment. For text, see pp. 200 to 208.]

* * * * *

PRESIDING JUDGE TOMS: As the name of each defendant is called, he will stand and answer the questions put to him by the Tribunal and give his answers into the microphone.

DR. SEIDL (counsel for defendant Oswald Pohl): Mr. President, before the defendants are heard with reference to the question of guilt, I beg to have the opportunity to make an application on behalf of defendant Oswald Pohl, which refers to the indictment.

PRESIDING JUDGE TOMS: You have already filed a written motion in behalf of defendant Pohl?

DR. SEIDL: On the first of March of this year I submitted an application in writing to the Secretary General, demanding on behalf of the defense, a supplement of facts with regard to the indictment. I should like to repeat this application here in open session of the Tribunal and should like to give a verbal argument in favor of it.

PRESIDING JUDGE TOMS: The Tribunal has before it your written application or motion and it will be heard in due time, but we will proceed with the arraignment on the indictment as filed.

PRESIDING JUDGE TOMS: Oswald Pohl, did you receive a copy of the indictment in this case on 13 January 1947?

DEFENDANT POHL: Yes.

Q. Are you represented by counsel?

A. Yes.

Q. How do you plead to this indictment, guilty or not guilty?

A. I declare that I am not guilty.

Q. You may be seated.

[At this point the balance of the defendants were arraigned. All pleaded not guilty to the charges of the indictment.]

* * * * *

PRESIDING JUDGE TOMS: The Secretary General will enter on behalf of each of the several defendants a plea of not guilty.

The Court has just signed the order approving the application of Dr. von Stein as attorney for the defendant Franz Eirenschmalz.

Various motions have been filed on behalf of the defendants Frank, [Hans] Loerner, Hohberg, Pohl, Pook, and Bobermin asking for various types of relief, particularly with reference to the indictment. These motions will be determined by the Tribunal in advance of the trial, and argument on the motions will be permitted, if requested.

Am I right Mr. McHaney, in stating that it is proposed to start the taking of proof in this case tentatively on 24 March?

MR. MCHANEY: That is correct, your Honor.

PRESIDING JUDGE TOMS: Counsel for the defendants will be advised of that plan and will be ready to proceed on that day, unless otherwise notified in the meantime.

There being nothing further before the Tribunal at this moment, the Tribunal will be in recess without day, but with the advice to counsel that the next probable session of the Tribunal will be 24 March at 9:30 o'clock and in courtroom 581, not in this room.

Court will be in recess.

III. OPENING STATEMENTS OF THE PROSECUTION AND DEFENSE

A. Extracts from Opening Statement of the Prosecution

MR. MCHANEY: May it please the Tribunal, today marks the opening of the first proceeding in Nuernberg devoted exclusively to the trial of persons active in the SS. On 30 September 1946, the International Military Tribunal found the SS to have been a criminal organization.* Since that date, four indictments, other than the one in this case, have been filed with the Military Tribunals by the Chief of Counsel for War Crimes acting on behalf of the United States of America. The defendants range from doctors and officials in the German medical services to a field marshal in the Luftwaffe, from officials of the judicial system of the Third Reich to the directors of an industrial combine. Yet without exception each of these cases deal in large measure with crimes to which the SS was a party. In all but one of these cases, the SS is represented among the defendants. Indeed, in the trial before the International Military Tribunal no less than eleven of the defendants were members of the SS.

This points up the tremendous power and influence wielded by the SS in the Third Reich. Even now, nearly two years after the termination of hostilities, the SS is too often regarded as a mere collection of racial fanatics, well-drilled fighting men, or concentration camp thugs. Let there be no mistake about that—Himmler was eminently successful in making the SS an all-powerful elite. Its members were represented in the personal entourage of Hitler in the Reich ministries, in the Wehrmacht, in the provincial and municipal governments, in industry and finance, in the press, in occupied territories, and in the spheres of education and culture. It has been said with considerable truth that the SS was a state within a state.

It is therefore a matter of importance to investigate the workings of this SS state and to fix the responsibility for its manifold crimes on those men in high positions who kept the monstrous machinery running. Justice could not tolerate the trial of sadistic concentration camp commanders and guards, or even industrialists who ran their factories with slave labor, without bringing to account those men of the SS who made such things possible. In this dock sit the principal surviving leaders of the SS Economic and Administrative Main Office (SS Wirtschafts- und

* Trial of the Major War Criminals, vol. I, p. 273, Nuremberg, 1947.

Verwaltungshauptamt), commonly called the WVHA. It was they who procured the material, money, and slaves to support the SS state. It was they who supervised the lawless jungles which were concentration camps. It was they who were the greatest users of slave labor. As Eugen Kogon has said, "No super-Jew of Streicher's ever accomplished what SS Obergruppenfuehrer Pohl succeeded in doing—the rationalization of turning corpses into money on a mass basis."

The crimes which are the subject of this trial run the gamut of "man's inhumanity to man"—the systematic commission of atrocities in concentration camps; the utilization of slave labor under brutal and inhumane conditions; the extermination of the Jews, and so-called "useless eaters"; criminal medical experimentation on concentration camp inmates; the destruction of the Warsaw ghetto; and the confiscation of property on a gigantic scale. The defendant Pohl and his collaborators in the WVHA were parties to all of these crimes and many more.

Since this case is concerned with the criminal activities of one of the Main Offices of the SS, it is necessary to understand something of the history and organization of the SS in general and the WVHA in particular. To assist the Tribunal in this regard, the prosecution has prepared and delivered to the Tribunal a brief containing basic information on the SS and the WVHA. This has also been made available to defense counsel in both German and English. It includes a glossary of German words and expressions which will be used frequently in the course of the trial, a table of equivalent ranks of the American Army and the German Wehrmacht and the SS,¹ and two charts showing the organization of the SS and the WVHA.²

The Schutz Staffeln or SS was the protective guard of the National Socialist Party (NSDAP). It was formed in 1925 to protect leaders and speakers at Party meetings and above all to protect the person of the Fuehrer. As the "Fuehrer" or leader of the Nazi Party, Hitler was the "Oberste Fuehrer" or Supreme Leader of the SS.

In January 1929 Heinrich Himmler was appointed Reich Leader SS. As such, he was the commander of the SS and subordinated directly to Hitler as head of the Nazi Party. At that time, the SS numbered only about 280 men and was much less important than the Sturmabteilung or SA, which was a Nazi pari-military unit under the ambitious Captain Ernst Roehm. Patiently and unobtrusively, Himmler set about creating out of the SS an aristocracy within the Nazi Party. He called this aristocracy the

¹ Table of Comparative Ranks is contained in appendix.

² Table of Organization of WVHA (NO-111, Pros. Ex. 38), is reproduced on pp. 313-319.

German Order of Men (Deutscher Maennerorden). Selection for membership in the SS was based on the doctrine of "race and blood." Himmler once said:

"I am a convinced supporter of the idea that what matters in the world ultimately is only good blood * * *. I have approached my task from this angle. It means that actually the only good blood, according to our reading of history, is the leading creative element in every state, and in particular, the blood engaged in military activity and, above all, Nordic blood."

At the time of the seizure of power by the Nazi Party in January 1933, this self-proclaimed "racial elite" was 52,000 strong. Not, however, until the Roehm purge of 30 June 1934 did the SS become the ruling caste within the Party. On that bloody "Night of the Long Knives," it was the brutalized and ever obedient SS which murdered Roehm and his important collaborators in the SA who were said to be dissident elements in the Party. Thenceforth, the SS assumed the duty of ensuring the continued power of the Nazi regime or, as it was officially stated, of "protecting the internal security of the Reich."

The subsequent development of the SS was based primarily upon the tremendous increase in power of Himmler. Wherever Himmler went, the SS went with him. In June 1936, he was appointed chief of the German police in the Ministry of Interior with authority over the regular uniformed police as well as the Security Police, which was defined to include both the criminal police and the notorious *Gestapo* or Secret State Police. In this connection, mention should also be made of the Sicherheitsdienst of Reich Leader SS or SD which worked closely with the Gestapo. The SD was the espionage agency, first of the SS, and after June 1934 of the whole Nazi Party. Reinhard, or as he was known abroad, "Hangman" Heydrich, was the chief of the SD. Himmler, in his capacity as Reich Leader SS and Chief of the German Police, appointed Heydrich as chief of the Security Police on 26 June 1936. This amalgamated the Security Police, a State organization, with the SD, a Party organization.

By a decree of 27 September 1939, the various State and Party offices under Heydrich as chief of the Security Police and SD were united into one administrative unit, the Reich Security Main Office or RSHA, which was at the same time both one of the Main Offices of the SS Supreme Command under Himmler as Reich Leader SS and an office in the Ministry of Interior under Himmler as chief of the German police.

On a regional level, Himmler appointed a Higher SS and Police Leader for each Wehrkreis [SS Oberabschnitt—SS Main Sector] who coordinated the activities of the Security Police and SD,

Order Police, and Allgemeine SS within their jurisdictions. In 1939 the SS and police systems were amalgamated by taking into the SS all police officials at equivalent ranks.

This unification of the SS and police greatly enhanced the power of the SS. Its power and influence was further increased by the appointment of Himmler in August 1943 as Reich Minister of the Interior, a position which controlled the greater part of the vast German bureaucracy. Finally, in July 1944, he succeeded General Fromm as Commander in Chief of the Replacement Army and Chief of Military Armament [army equipment]. He then controlled all forces on the home front.

Parallel with this development of the SS its influence was increased by the practice of appointing important State officials and other public figures to high rank in the SS. Industrialists, bankers, and business men were prevailed upon to contribute substantial sums of money to the SS in order to stand in well with the Party aristocracy. Through infiltration the SS gained influence in every branch of German life.

By 1939, the Allgemeine SS, the original formation of the SS, numbered approximately 240,000 men. In addition, there were two other SS formations—the Special Service Troops and the Death Head Formations—which together had a strength of about 40,000 men. The Special Service Troops constituted a force of SS men who volunteered for four years' military service in lieu of compulsory service with the army. It was organized as an armed unit to be employed with the army in the event of mobilization. The Death Head Formations were selected from SS volunteers and were used to guard concentration camps.

After the outbreak of war, units from both the Special Service Troops and the Death Head Formations were used in the Polish campaign. These troops came to be known as the Waffen or armed [Combat] SS. By 1940 the Waffen SS contained 100,000 men, 56,000 coming from the Special Service Troops and the rest from the Allgemeine SS and the Death Head Troops. Concentration camp guard duties came to be performed primarily by members of the Allgemeine SS. The Waffen SS fought in every campaign with the exception of those in Norway and Africa. By the end of the war it is estimated to have comprised about 580,000 men. Thus, it was numerically by far the larger branch of the SS, the Allgemeine SS having declined in strength to less than 40,000.

The Waffen SS, including the Death Head Formations, was in effect a part of the Wehrmacht and its expenses were a charge on the State. The Allgemeine SS, on the other hand, was an inde-

pendent branch of the Party and its finances were ultimately controlled by the Party treasurer.

Subject to the controlling authority of the Reich Leader SS, the work of directing, organizing, and administering the whole body of the SS was carried out by what may be loosely called the Supreme Command of the SS. This Supreme Command consisted of twelve Main Offices. The most important of the Main Offices were the Reich Security Main Office or RSHA; the Operational Headquarters; and the Economic and Administrative Main Office, the WVHA.

I have already described the amalgamation of the SD and the Gestapo and criminal police under Heydrich as chief of the RSHA. After the assassination of Heydrich in 1942, Kaltenbrunner was made chief of the RSHA. For his criminal activities in that position, he was tried, convicted, and sentenced to death by the International Military Tribunal. The Gestapo, among other things, was responsible for the commitment of political prisoners to concentration camps. Our proof in this case will show the close cooperation between the Security Police and SD and the WVHA not only in matters concerning concentration camps, but also in the extermination of the Jews, the spoliation of property on a gigantic scale, and the utilization of slave labor under inhumane conditions.

The SS operational headquarters was the main office of the SS which was responsible for the training, organization and, to a certain extent, the operational employment of the Waffen SS and the Allgemeine SS.

Other important Main Offices were the SS Central Office which handled recruiting for the Waffen SS, propaganda, education, physical training, and so-called Germanic affairs; the SS Race and Settlement Office which was concerned with matters of "race", genealogy, and marriage permits within the SS, and the settlement of SS men in occupied territory bounding on the Reich; and the Personal Staff of the Reich Leader SS which was an advisory and coordinating body responsible for all matters not within the province of the other Main Offices and for liaison with Government and Party officials.

THE WVHA

I turn now to a description of the SS Economic and Administrative Main Office and to the position of these defendants in that organization.

Prior to the end of the war, little was known of the activities of the WVHA. In order to appreciate the organization and in-

fluence of this office, it is necessary to consider the three original offices which were later united to form the WVHA. These were the administrative department (Verwaltungsamt) in the SS central office, the Department of Budget and Buildings and the office of the Inspector of Concentration Camps.

The administrative department was for many years located in Munich. The defendant Pohl became chief of that department in February, 1934. He was at the same time, Plenipotentiary of the treasurer of the Nazi Party. The administrative department handled the financial and administrative matters of the Special Service Troops, the Death Head units, the concentration camps, and the Allgemeine SS. The defendants Frank, Georg and Hans Loerner, Vogt, Tschentscher, Eirenschmalz, and Baier were early collaborators of Pohl in various phases of this work.

In addition to administrative tasks, the administrative department soon concerned itself with business and industrial undertakings on behalf of the SS and Party. Prominent among these economic enterprises was the German Earth and Stone Works with granite quarries in the concentration camps of Flossenbuerg, Mauthausen, Gross-Rosen, and Natzweiler. In 1940 the German Economic Enterprises [Deutsche Wirtschafts-Betriebe] was formed by Pohl and Georg Loerner as a holding company. It was commonly known as the DWB Combine, and it controlled many of the business enterprises run by the administrative department, or as it was then known, the Administrative and Economic Main Office [Main Office Administration and Economy]. It had a capitalization in excess of 46 million Reichsmarks. The defendants Hohberg, Volk, Mummmenthey, Bobermin, and Klein were active in developing and managing these economic enterprises. Concentration camp inmates were used as laborers on a vast scale.

By an order of 20 April 1939, Himmler raised the administrative office of Pohl to the rank of a Main Office of the SS. It was called the Administrative and Economic Main Office and abbreviated "WVHA". At the same time Pohl was appointed chief of the newly created Budget and Buildings Main Office. Thus, after this reorganization, there were three departments under Pohl's jurisdiction, Amt I-Budget, Amt II-Buildings, and Amt III-Economic Enterprises. Amt I and II were said to be identical with the Department for Budget and Buildings in the Ministry of Interior, of which Pohl was a Ministerialdirektor.

All three of these departments had a very substantial relationship to the concentration camps. Amt I (budget) was in charge of the allocation and control of prison labor; Amt II (buildings) was in charge of actual building and construction

work; and Amt III (economic enterprises) controlled various plants using prisoners. All of these Aemter had representatives in every concentration camp.

The third precursor of the WVHA which I have mentioned was the office of the Inspector of Concentration Camps, first under Eicke and then Gluecks. This office was responsible for the control of the SS Death Head guards and the entire internal administration of the camps. I have already briefly indicated the strong interest of Pohl's organization in the concentration camps. In December 1939, Himmler said that: "The supervision of the economic matters of these institutions (concentration camps) and their application to work is the responsibility of SS Gruppenfuehrer Pohl". This problem of divided authority was finally resolved in March 1942 and the office of the Inspector of Concentration Camps was subordinated to Pohl. At about the same time, a final reorganization took place which created the WVHA with the defendant Pohl as its chief. The WVHA was divided into five branches, Amtsgruppen A, B, C, D, and W.

Amtsgruppe A was the supreme authority for the finance and administration of the whole of the SS. This department negotiated with the Reich Ministry of Finance for funds to support the Waffen SS and other SS activities carried out for the State. It handled the budgets, payments, and audits for all the SS, including the concentration camps. It was responsible for the general supervision and coordination of all SS administration, and for the training and appointment of administrative personnel. The defendant Frank was chief of Amtsgruppe A and deputy chief of the WVHA until September 1943. He was succeeded as chief of Amtsgruppe A by the defendant Fanslau who had previously been in charge of the personnel office. The defendant Hans Loerner was in charge of the office for budgets while the defendant Vogt was head of the auditing office.

Amtsgruppe B controlled food supply, uniforms, billeting, raw materials, and equipment for the SS. As far as the Waffen SS was concerned, responsibility for supply was divided between the SS Operational Headquarters and the WVHA. Broadly speaking, the operational headquarters supplied arms, ammunition, and other technical equipment, while the WVHA was responsible for rations, clothing, fuel, and personal items of equipment. Among other things, Amtsgruppe B was responsible for the supply of food and clothing to concentration camps. The defendant Georg Loerner was chief of Amtsgruppe B and after 1 September 1943, was deputy chief of the WVHA. The defendant Tschentscher was deputy to Loerner and head of the office for food supplies. The

defendant Scheide was in charge of the office for supply of transport, machinery, and weapons.

Amtsgruppe C was charged with construction tasks of the SS and Police. This included the building and maintenance of barracks, camps and training grounds, field works, and fortifications, and roadmaking. All construction work in connection with concentration camps, such as gas chambers and crematoriums, was handled by this department. Amtsgruppe C was the greatest user of concentration camp labor in all of Germany, far outstripping such industries as I.G. Farben and the Hermann Goering Works. For the year 1942 alone, over forty-four thousand concentration camp inmates were requested for a total of sixty-one building projects. Two such projects were the installation and extension of crematoriums in the Buchenwald and Mauthausen concentration camps. Later in the war, Amtsgruppe C undertook such large-scale construction as the erection of V-2 plants and the movement of the aircraft and other war industries underground. This work was carried out under such atrocious conditions that literally tens of thousands of human beings were sacrificed. Chief of this department was the fabulous SS Obergruppenfuehrer Kammler, rumored as the successor to Speer.* His chief deputy was the defendant Eirenschmalz and the office for special construction tasks was under the defendant Kiefer.

Amtsgruppe D was in direct charge of the administration of concentration camps, including the infamous Auschwitz extermination camp. Apart from the actual imprisonment of prisoners, which was a function of the Reich Security Main Office, the WVHA and Amtsgruppe D were entirely responsible for this branch of SS activity. There are only two defendants in this dock who were members of Amtsgruppe D, Sommer and Pook. The defendant Sommer was deputy chief of Amt D II which handled the commitment of inmates for labor. The defendant Pook was chief dentist in Amt D III and had supervisory control over all dentists in concentration camps. It was their task, among others, to remove gold teeth from deceased inmates. However, substantially all of Amtsgruppe D has been accounted for. Gluecks, chief of the department, is dead as is Dr. Lolling, chief of the medical office. Liebehenschel, Hoess, and Kaindl were surrendered by the United States for trial by other countries. The notorious Hoess was camp commander of Auschwitz until December 1943. He confessed to having supervised the extermination in Auschwitz of two and one half million persons, while at least an additional half million succumbed to starvation and disease. Pohl was

* Defendant before International Military Tribunal. See *Trial of the Major War Criminals*, vols. I-XLII, Nuremberg, 1947.

so impressed with his ability that he was recalled to become chief of Amt D I. Gerhard Maurer, chief of Amt D II and the immediate superior of the defendant Sommer, is now in custody but his apprehension came after the indictment in this case had been filed. The same is true of Wilhelm Burger who was chief of Amt D IV.

Amtsgruppe W managed the economic enterprises run by the WVHA. At the top was the DWB Combine, a holding company through which the various industries were controlled. The defendants Pohl and Georg Loerner were the managing directors of the DWB, assisted by the defendants Baier, Volk, and Hohberg, who were members of the so-called staff W. The offices or Aemter of Amtsgruppe W managed the industries controlled by the DWB. Amt W I under the defendant Mummenthey supervised primarily the German Earth and Stone Works, Ltd. which was abbreviated DEST. It controlled granite quarries at Flossenbuerg, Gross-Rosen, Mauthausen, and Natzweiler; brick factories at Neuengamme, Stutthof, and Buchenwald; and two porcelain manufacturing plants. The commander Franz Ziereiss of Mauthausen has related how 1,000 Dutch Jews were worked and tortured into committing suicide in the quarry there.

In 1943, it was decided to employ more prison labor in armament work by the German Equipment Works Ltd. which was under the supervision of Amt W IV. However, since Amt W IV was not represented in all camps, Amt W I took over payment and accounts and put large underground stone quarries at the disposal of armament factories where the prisoners could carry out work without danger from air attacks. In this way, Amt W IV, using the facilities of Amt W I, worked as subcontractors to the armament factories. For example, aircraft assembly of the Messerschmitt 109 [Me-109] and Messerschmitt 262 for Messerschmitt was carried out at Mauthausen.

After the defeat of Poland in 1939, spoliation of property, especially that of Jews, occurred on a large scale. Under the direction of staff W and particularly of the defendants Pohl, Georg Loerner, Baier, Hohberg, and Volk a company called Eastern Industry Ltd., or Osti, was used to exploit Jewish property and manpower in Poland. A report states that this concern had to be liquidated because in November 1943 it was "deprived" of the Jewish workers. Of course, the truth of the matter is that these Jews were exterminated in the gas chambers of Auschwitz or Treblinka. In addition to the Osti action, Pohl took over in 1940 some 292 brick and tile factories which were managed by the East German Building Materials Works Ltd. under the

defendant Bobermin in Amt W II. Bobermin also controlled a cement factory using inmates from Auschwitz.

The defendant Klein was chief of Amt W VIII, an office with the anomalous title "Special Tasks". There were several sections in Amt W VIII, one of which was called "Society for the Improvement and Upkeep of German Monuments". But even this high sounding society involved itself in concentration camp crimes with the assistance of Klein. He supervised the financing and construction of an SS school at Wewelsburg near the Buchenwald concentration camp [sic]. Approximately 500 prisoners were detained in a small camp at Wewelsburg to assist in the construction of the school. A number of these prisoners died due to undernourishment and overwork.

The WVHA controlled many other economic enterprises which used concentration camp labor as well as supplied slave labor to such private industries as I.G. Farben and the Hermann Goering Works. These matters will be dealt with somewhat more fully at a later point.

CONCENTRATION CAMPS

MR. HART: Substantially all of the crimes charged in the indictment against these defendants were committed in concentration camps upon inmates forcibly detained there. Therefore, it will perhaps be helpful to consider this institution of terror, mass crime, and human degradation.

According to German law, a concentration camp provided protective custody for persons who were not legally sentenced to imprisonment by a court of law, and those who, having served a term of imprisonment, were then committed for further detention by the Security Police and SD. Protective custody orders were issued by the Reich Security Main Office. There were two general categories of protective custody, namely, political custody and police custody. Persons placed in political custody were those considered to be enemies of the Nazi State or otherwise undesirable, but who could not be convicted of any crime. This type of custody was theoretically not enforced as a punitive measure. Included among political custody prisoners were members of parties opposed to National Socialism as well as non-Party individuals of the same mind; Nazis guilty of some party crime; persons who listened to foreign broadcasts or expressed a "defeatist attitude"; and those whose general outlook on life was considered undesirable, such as church opponents of the regime and Jehovah's Witnesses.

Habitual criminals who had served their term of imprisonment could be placed in preventive custody as well as less serious

offenders such as drunkards, vagrants, and persons who changed positions without consent of the Labor Office—all of whom were regarded as “asocials”.

Another large group of inmates were the Nazi described “racial inferiors”, which included Jews, Poles, Slavs, and gypsies. The extermination policies of the SS were particularly directed against this group. Prisoners of war were also committed to concentration camps in great numbers, especially the Russians.

A special category of prisoners were “*Nacht und Nebel*” or night and fog inmates.* These were persons alleged to have committed offenses against the Reich or the German forces in occupied countries. The offenders were punished in the occupied territory only if the death penalty could be executed without delay. If this could not be done within one week of apprehension, the accused were taken secretly to Germany and handed over to the Security Police and SD for punishment. No word of the prisoners was permitted to reach their relatives or the country from which they came.

In 1941, concentration camps were graded according to the type of prisoners to be committed there. Grade I was for persons who had committed minor offenses. Grade II for persons who had committed major offenses but were thought subject to correction, while those beyond the pale were sent to grade III camps, the “bone mills” which one rarely left alive. This classification was of course, a relative concept; a former inmate of Dachau would regard it a gruesome joke to be told he had resided in a grade I concentration camp. The best that can be said is that his catastrophe might have been worse in Mauthausen, which was for grade III prisoners. In any event, later developments apparently necessitated deviations from the classification plan. Inmates were transferred from one camp to another solely according to their working capabilities and the needs of the economic enterprises run by the WVHA.

As to the number of concentration camps and inmates during the war period, it is only possible to give approximate figures. In April 1944 the defendant Pohl informed Himmler that there were 20 concentration camps and 165 labor camps in the Reich and German occupied territory. A postscript to this letter in Pohl’s handwriting boastfully states that: “In Eicke’s time there were altogether six camps. Now: 185!” But even those figures are apt to be misleading as there were dozens of outside camps surrounding the

* These prisoners were sent to Germany pursuant to a decree (Bei Nacht und Nebel—by night and fog) which ordered their removal to Germany in greatest secrecy. See cases *United States vs. Josef Altstoetter, et al.*, vol. III and *United States vs. Ernst von Weizsaecker, et al.*, vols. XII, XIII, XIV.

so-called "mother camp". In the case of Mauthausen, for example, Camp Commander Ziereiss estimated that there were 45 outside camps. Among the large camps centrally administered by the WVHA were Auschwitz, Bergen-Belsen, Lublin, Mauthausen, Natzweiler, Neuengamme, Ravensbrueck, and Stutthof. It is interesting to note that war crimes trials have been held with respect to most of those camps.

Figures on the number of concentration camp inmates are even more difficult. Here one must distinguish between the total number of prisoners present in the camps at a given date and the total number delivered to the camps during the Nazi regime. It is known that in August 1944 there were approximately 524,000 inmates of whom 145,000 were women. But the same document shows that an additional 610,000 persons were on their way to concentration camps. Some 400,000 of these were Poles from Warsaw, which shortly before had risen in arms against the German occupation force. Another 150,000 were Jews from Hungary and the Lodz ghetto, and 15,000 Poles from the Government General, 10,000 "convicts" from the Eastern territories, 17,000 Polish officers, and 20,000 Frenchmen.

As to the total number of prisoners delivered to the camps, only a reasonable estimate can be made. If the number of dead at Auschwitz alone is considered, amounting to at least 3.5 million, it is safe to assume that no less than 10 million human beings were at one time or another incarcerated in a concentration camp.

Much could be said about the horrible living conditions of concentration camps and the proof of the prosecution will leave no doubt that the prisoners were subjected to systematic cruelty. One former inmate has stated that there stood invisible over the camp gate, the inscription from Dante's inferno:

"Through me you enter the city of those elected for grief,
Through me you enter the eternal pain,
Through me you enter the people of the lost.

* * * * *

All hope abandon ye who enter here."

The cold statistics of death rates in concentration camps show an utter lack of hygienic conditions. In September 1943 the defendant Pohl reported to Himmler that the natural death rate for the last 6 months of 1942 averaged 9.89 percent per month. Such figures of course, in no way reflect the agonies of slow death through starvation and overwork.

In April 1945, a committee of the Congress of the United States made an official investigation of the conditions in concentration camps of Buchenwald, Nordhausen, and Dachau shortly after they

had been overrun by the American armies. The report submitted by the committee contained the following conclusions:

"While the above three camps which were visited by the joint committee differed in some details, they were all of the same general pattern and design and administered for the same purpose.

"Although different in size, they all carried into effect the same pattern of death by hard labor, starvation, hanging, strangulation, disease, brutality, gas chambers, gallows, and filthy and unsanitary conditions, which meant inevitable death eventually to every imprisoned person.

"We found that this entire program constituted a systematic form of torture and death administered to intellectuals, political leaders, and others who would not embrace and support the Nazi philosophy and program. We found the extent, devices, methods, and conditions of torture almost beyond the power of words to describe.

"The treatment accorded to these prisoners in the concentration camps was generally as follows: They were herded together in some wooden barracks not large enough for one-tenth of their number. They were forced to sleep on wooden frames covered with wooden boards in tiers of two, three, and even four sometimes with no covering, sometimes with a bundle of dirty rags serving both as pallet and coverlet.

"Their food consisted generally of about one-half a pound of black bread per day and a bowl of watery soup for noon and night, and not always that. Owing to the great numbers crowded into a small space and to the lack of adequate sustenance, lice and vermin multiplied, disease became rampant, and those who did not soon die of disease or torture began the slow process of starvation. Notwithstanding the deliberate starvation program inflicted upon these prisoners by lack of adequate food, we found no evidence that the people of Germany as a whole were suffering from any lack of sufficient food or clothing. The contrast was so striking that the only conclusion which we could reach was that the starvation of the inmates of these camps was deliberate.

"Upon entrance into these camps, newcomers were forced to work either at an adjoining war factory or were placed 'in commando' on various jobs in the vicinity, being returned each night to their stall in the barracks * * *. A refusal to work or an infraction of the rules usually meant flogging and other types of torture, such as having their fingernails pulled out, and in each case, usually ended in death after extensive suffering. The policies herein described constituted a calculated and dia-

bolical program of planned torture and extermination on the part of those who were in control of the German Government. These camps, on the whole, were conducted and controlled by the SS troops and the Gestapo, who acted under orders from their superiors or who were given wide discretion in the methods which they were to adopt in perpetrating these hideous and inhuman sufferings.

“It is the opinion of your committee that these practices constituted no less than organized crime against civilization and humanity and that those who were responsible for them should have meted out to them swift, certain, and adequate punishment.”

The International Military Tribunal in Case No. 1, made the following findings of fact in its judgment on pages 16896-7 of the English transcript: *

“In the administration of the occupied territories the concentration camps were used to destroy all opposition groups. The persons arrested by the Gestapo were as a rule sent to concentration camps. They were conveyed to the camps in many cases without any care whatever being taken for them, and great numbers died on the way. Those who arrived at the camp were subject to systematic cruelty. They were given hard physical labor, inadequate food, clothes, and shelter, and were subject at all times to the rigors of a soulless regime, and the private whims of individual guards.

* * * * *

“A certain number of the concentration camps were equipped with gas chambers for the wholesale destruction of the inmates, and with furnaces for the burning of the bodies. Some of them were in fact used for the extermination of Jews as part of the ‘final solution’ of the Jewish problem. Most of the non-Jewish inmates were used for labor, although the conditions under which they worked made labor and death almost synonymous terms. Those inmates who became ill and were unable to work were either destroyed in the gas chambers or sent to special infirmaries, where they were given entirely inadequate medical treatment, worse food, if possible, than the working inmates, and left to die.”

MEDICAL EXPERIMENTS

I come now to a very special group of crimes committed in concentration camps under the guise of medical science. Throughout the whole period of the war, medical experiments were per-

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, pp. 234-235.

formed on thousands of inmates with a wanton disregard for human life. It is an impossible task for the prosecution adequately to portray the tortures to which those helpless human beings were subjected.

In these crimes, the WVHA was an essential party of the conspiracy, a conspiracy which embraced leaders of the military and civilian medical services of the German Reich. It was only through the SS, the WVHA with its control over concentration camps, that the human experimental material could be obtained. A number of the doctors who performed these criminal experiments are now on trial before Military Tribunal I, but in this dock sits the man and his confederates who made the human guinea pigs available, to be kept naked for 14 hours in freezing weather, infected with typhus, and the like.*

* * * * *

EUTHANASIA (ACTION "14 f 13")

I pass now to a phase of mass extermination implemented by the concentration camp structure, the so-called euthanasia program. On the opening day of the invasion of Poland, 1 September 1939, Adolf Hitler charged Professor Karl Brandt, at that time his escort physician, and Philipp Bouhler, the chief of the Private Chancellery of the Fuehrer, with the task of organizing and executing a program for the extermination of persons considered incurably ill.

The timing of the program with the initiation of a war of aggression was, of course, not a coincidence. By the elimination of insane, aged, and incurable persons, as well as deformed children, it was hoped to make more medical personnel and hospital facilities available for war casualties. It is equally clear that this program implemented the basic Nazi doctrines of race, blood, and State; only those persons who could strengthen the Nordic race and the Third Reich were considered worthy of life. Hence, those who were weak in mind or body, who were unable to work, who were "useless eaters" were systematically and ruthlessly killed.

As a result of the Fuehrer order, a large and somewhat complicated organization was established to carry out the euthanasia program. Since we are here concerned with euthanasia only insofar as it touches the concentration camps and the jurisdiction of the WVHA, the over-all operation of the program can be sketched in broad strokes. Questionnaires were sent to the Ministry of Interior

* A considerable amount of material concerning the utilization of concentration camp inmates for medical experiments is published in the case of *United States vs. Karl Brandt, et al.*, vols. I and II. No selections from the arguments and evidence concerning medical experiments have been reproduced in this case.

purporting to report the condition of each patient in the various mental institutions. These questionnaires were submitted to so-called experts in the euthanasia organization who (without so much as having seen the patient) passed sentence on life or death. Then a list was made up of the patients who were judged as "positive" cases and these patients were removed from the asylum to collecting centers and from there were transferred to euthanasia stations and killed. The executions were carried out without the consent of the relatives and, of course, without the consent of the victim. Falsified death notices with stereotype wording were sent to the relatives.

The entire procedure was carried out under elaborate code names in an effort to insure secrecy. However, this proved to be quite impossible and the program was common knowledge throughout Germany. Indeed, public opinion—and particularly that of the church—was effective enough to bring about a temporary stop in the general program in the autumn of 1941. The heartfelt protest by thousands of decent Germans against this wholesale murder is exemplified in a letter written by the Bishop of Limburg to the Ministry of Justice in 1941, when he said:

"About 8 kilometers from Limburg, in the little town of Hadamar on a hill overlooking the town, there is an institution which formerly had served various purposes and of late had been used as a nursing home; this institution was renovated and furnished as a place in which, by consensus of opinion, the above mentioned euthanasia has been systematically practiced for months—approximately since February 1941. The fact has become known beyond the administrative district of Wiesbaden, because death certificates from a Registry Hadamar-Moenchberg are sent to the home communities. (Moenchberg is the name of this institution because it was a Franciscan monastery prior to its secularization in 1803.)

"Several times a week busses arrive in Hadamar with a considerable number of such victims. School children of the vicinity know this vehicle and say: 'There comes the murder-box again.' After the arrival of the vehicle, the citizens of Hadamar watch the smoke rise out of the chimney and are tortured with the ever-present thought of the miserable victims, especially when repulsive odors annoy them, depending on the direction of the wind.

"The effect of the principles at work here are: Children call each other names and say, 'You're crazy; you'll be sent to the baking oven in Hadamar.' Those who do not want to marry, or find no opportunity, say, 'Marry, never. Bring children into the world so they can be put into the bottling machine!' You

hear old folks say, 'Don't send me to a State hospital! After the feeble-minded have been finished off, the next useless eaters whose turn will come are the old people.'

"All God-fearing men consider this destruction of helpless beings as crass injustice. And if anybody says that Germany cannot win the war, if there is yet a just God, these expressions are not the result of a lack of love of Fatherland but of a deep concern for our people. The population cannot grasp that systematic actions are carried out which in accordance with paragraph 211 of the German criminal code are punishable with death. High authority as a moral concept has suffered a severe shock as a result of these happenings. The official notice that N.N. had died of a contagious disease and for that reason his body had to be burned, no longer finds credence, and such official notices which are no longer believed have further undermined the ethical value of the concept of authority.

"Officials of the Secret State Police, it is said, are trying to suppress discussion of the Hadamar occurrences by means of severe threats. In the interest of public peace, this may be well intended. But the knowledge and the conviction will be increased with the bitter realization that discussion is prohibited with threats but that the actions themselves are not prosecuted under penal law."

This case is concerned with the euthanasia program because thousands of prisoners of all nationalities were transported from the concentration camps to euthanasia stations and murdered there. It is also true that camp doctors systematically killed inmates who were no longer able to work under the pretense that they were insane. These killings were usually accomplished by injections of phenol or gasoline. The executions were carried out under the code name "14 f 13" which apparently was derived from a file number in Amtsgruppe D of the WVHA. That office played an essential role in the operation of the program.

Thus, on 10 December 1941, the Inspectorate of Concentration Camps sent a letter to the camps of Dachau, Sachsenhausen, Buchenwald, Mauthausen, Auschwitz, Flossenbuerg, Gross-Rosen, Neuengamme, and Niederhagen advising them that the doctors' commission would visit the concentration camps in the near future to select prisoners for "special treatment 14 f 13" and enclosing the usual form of questionnaire used in the euthanasia program. The camp doctors were directed to complete questionnaires on eligible prisoners in order to shorten the work of the doctors' commission. Exactly five days later, the camp doctors at Gross-Rosen had selected 293 inmates as eligible for screening by the doctors' commission. These unfortunate people were care-

fully listed under such headings as "Poles or Czechs in Protective Custody," "Shirkers," "Jews in Protective Custody," "Jews who were Habitual Criminals," "Jews who were shirkers," "Jews who Defiled the Race." A Jew who defiled the race was one who had married or had sexual intercourse with an Aryan.

This list was sent to the Inspectorate of Concentration Camps, which in turn wrote Gross-Rosen to expect a Dr. Mennecke on 16 January 1942 who would make the final selection. Dr. Mennecke was one of the so-called experts in the euthanasia program who was commissioned to visit concentration camps. He was recently tried, convicted, and sentenced to death by a German court for his part in the program. He was brought to Nuernberg and testified for the prosecution in the case against Karl Brandt *et al.* Of the 293 inmates listed as eligible by the camp management at Gross-Rosen, 214 were selected for extermination by Dr. Mennecke and no less than 51 of those were of Polish or Czech nationality. A further substantial number were Jews of non-German nationality. Our proof will show that 127 of those prisoners were sent to the Bernburg euthanasia station and exterminated, 36 died before the transport left Gross-Rosen, and of the remainder, 42 were not transported because as a result of a thirty-day rest, they were again able to work.

This speedy recovery of the 42 inmates selected for extermination brought forth a reprimand from the WVHA. On 26 March 1942, Liebehenschel, chief of Amt D I, wrote to the camp commanders as follows:

"Through the report of a camp commander it became known, that 42 of the 51 inmates selected for special treatment 14 f 13 became 'fit to work again' after some time which made their transfer for special treatment unnecessary. This shows that the selection of these inmates is not being effected in compliance with the rules laid down. Only those inmates who correspond to the conditions laid down and, this is the most important thing, who are no longer fit to work, are brought before the examining commission.

"In order to enable the concentration camps to carry out the tasks they are set, every inmate fit to work is to be put at the disposal of the camp. The camp commanders of the concentration camps are asked to give their special attention to this matter."

It is thus apparent that the euthanasia program had as its main purpose the execution of those no longer able to work. However, it was also used as a means for the extermination of Jews. This is clearly shown in the method of selecting Jews. The physical examination of Aryan inmates was certainly no more than

perfunctory, but as to Jewish inmates there was no examination whatever. In November 1941, Dr. Mennecke wrote to his wife concerning the euthanasia examinations in Buchenwald as follows:

“As a second portion a total of 1200 Jews followed, all of whom do not need to be ‘examined’, but where it is sufficient to take the reasons for their arrest from the files (often very voluminous!) and to transfer them to the reports. Therefore, it is merely a theoretical work * * *.”

The reasons for arrest which were considered as sufficient to justify exterminating Jews are also illuminating. We will present to the Tribunal a series of pictures of 63 Jews who were selected in Buchenwald. Dr. Mennecke wrote the reasons for arrest on the back of each of these pictures. One Jewess was noted as having a “derogatory attitude toward the Reich; continuous race defilement by keeping her Jewish descent a secret and rendering the Hitler salute.” Another had made “incredibly impudent and spiteful remarks toward Germans; on the train made acquaintance of soldiers coming from the front, introducing herself as Jewess, gave them bread for coffee and cocoa, then insulted the soldiers in the meanest possible way.” A third was said to be an “anti-German eastern Jew agitator; in the camp, lazy, impudent, recalcitrant.”

This murderous program continued long after the WVHA had assumed jurisdiction over the concentration camps. From the middle of 1943 the selections were supposed to be limited to insane inmates unable to work. On 27 April 1943 Gluecks, chief of Amtsgruppe D, sent the following order to the concentration camps:

“The Reich Leader SS and chief of the German Police upon demonstration has decreed that in the future only insane prisoners can be selected for the action 14 f 13 by the medical commissions appointed for this purpose.

“All other prisoners unfit for work (persons suffering from tuberculosis, bedridden invalids, etc.) are absolutely to be excluded from this action. Bedridden prisoners are to be given suitable work, which can also be done in bed.”

The prosecution will present evidence on the operation of the euthanasia program in the Buchenwald, Dachau, Gross-Rosen, Mauthausen, and Natzweiler concentration camps. These invalid transports were a thing of terror to all inmates as they were frequently used by the camp management as a means of disposing of prisoners considered to be undesirable. It appears that the extermination stations of Bernburg and Hartheim were the principle centers for killing prisoners. Frank Ziereiss, former com-

mander of Mauthausen, estimated that at least 20,000 prisoners were executed at Hartheim over a period of one and one-half years.

The criminality of the euthanasia program as it operated in the Third Reich presents no novel question of law. The International Military Tribunal found that it involved the commission of war crimes and crimes against humanity and I quote from the judgment, pages 16916-17 of the English transcript: *

“Reference should also be made to the policy which was in existence in Germany by the summer of 1940, under which all aged, insane, and incurable people, ‘useless eaters’, were transferred to special institutions where they were killed, and their relatives informed that they had died from natural causes. The victims were not confined to German citizens, but included foreign laborers, who were no longer able to work, and were therefore useless to the German war machine. It has been estimated that at least some 275,000 people were killed in this manner in nursing homes, hospitals, and asylums, which were under the jurisdiction of the defendant Frick, in his capacity as Minister of the Interior. How many foreign workers were included in this total it has been quite impossible to determine.”

A number of decisions of German courts since the end of the war have also held that the euthanasia program was in violation of the German penal law.

SLAVE LABOR

MR. ROBBINS: A primary phase of National Socialist policy which permeated every level of Party and government, from the highest to the lowest, was that of enslaving peoples and exploiting their labors and energies. This policy of labor exploitation was emphasized in many of Hitler’s speeches. His declaration on 9 November 1941—quoted in the judgment of the International Military Tribunal—is typical. There he boasted that 250 million men lived in the territory which worked solely for Germany, and that the territory which worked indirectly for Germany contained 350 million men. “It is not doubtful,” Hitler said, “that we shall succeed in harnessing the very last man to our work.” In Himmler’s now infamous Poznan speech on 4 October 1943 the attitude of the SS toward Germany’s slave laborers was strikingly related, and I quote:

“What happens to a Russian, to a Czech, does not interest me in the slightest. What the nations can offer in the way of good blood of our type, we shall take, if necessary by kidnaping

* Trial of the Major War Criminals, *op. cit. supra*, p. 247.

their children and raising them here with us. Whether nations live in prosperity or starve to death interests me only insofar as we need them as slaves for our Kultur; otherwise, it is of no interest to me. Whether 10,000 Russian females fall down from exhaustion while digging an anti-tank ditch interests me only insofar as the anti-tank ditch for Germany is finished. We shall never be rough and heartless when it is not necessary, but it is clear, we Germans, who are the only people in the world who have a decent attitude towards animals, will also assume a decent attitude towards these man animals. But it is a crime against our own blood to worry about them and give them ideals, thus causing our sons and grandsons to have a more difficult time with them."

It was appropriate that the most unmerciful and satanic part of the slave labor program—that carried out in the concentration camps—should have been entrusted to Oswald Pohl and the members of the WVHA. The various precursors of the WVHA, with the help of Pohl and others of the defendants, had proved their ability to exploit the inmates of concentration camps. As early as 1939 Himmler ordered that supervision over economic matters and use of inmate labor should be under Pohl, although administration of camps at that time was still under the Concentration Camp Inspectorate. In 1939 also, the defendant Mummert was made business manager of the DEST industry which was one of the most lethal employers of concentration camp inmates. In 1940 he argued vigorously, on the basis of his experience, that the DEST industry should remain an enterprise operated with inmate labor only. Volk, too, as well as others of the defendants, had thoroughly mastered the economics of slave labor. By the time Pohl's group was reorganized in February 1942, they had developed a science of exhausting the last effort of those whose productive capacity was so pitifully small from malnutrition and mistreatment. When the WVHA assumed complete jurisdiction over the concentration camps, Pohl wrote to Himmler explaining his plans for the utilization of inmate labor:

"1. The war has brought about a marked change in the structure of the concentration camps and has changed their duties with regard to the employment of the prisoners. The custody of prisoners for the sole reasons of security, education, or prevention is no longer the main consideration. The mobilization of all prisoners who are fit for work, for purposes of the war now, and for purposes of construction in the forthcoming peace, come to the foreground more and more.

"2. From this knowledge some necessary measures result with the aim to transform the concentration camps into or-

ganizations more suitable for the economic tasks, while they were formerly merely politically interested.

"3. For this reason I have gathered together all the leaders of the former Inspectorate of Concentration Camps, all camp commanders, and all managers and supervisors of work. On 23 and 24 April 1942, I compiled in the order attached, the main essentials which have to be brought into effect with the utmost urgency if the commencement of work for purposes of the armament industry is not to be delayed."

The order by Pohl referred to in the letter to Himmler, was addressed to all concentration camp commanders and work managers and contained the following provisions:

"The camp commanders alone are responsible for the employment of the labor available. This employment must be, in the true meaning of the word, exhaustive in order to obtain the greatest measure of performance.

"Work is allotted by the chief of the Department D centrally and alone. The camp commanders themselves may not accept on their own initiative work offered by third parties and may not negotiate about it.

"There is no limit to working hours. Their duration depends on the kind of working establishments in the camps and the kind of work to be done. They are fixed by the camp commanders alone.

"Any circumstances which may result in a shortening of work hours (e.g., meals, roll calls) have therefore to be restricted to a minimum which cannot be condensed any further. It is forbidden to allow long walks to the place of working and noon intervals are only for eating purposes.

"Guard duties have to be freed from traditional rigidity and to be made more flexible having regard to the coming tasks of peace. Sentries on horseback, watch dogs, and movable obstacles are to be developed."

Every means, except humane treatment, was employed by the defendants to extract every effort to the last gasp of the workers before they died, as they did by the thousands, from overwork; "employment must be in the true sense of the word exhaustive," "there is no limit to working hours," "sentries on horseback and watchdogs are to be used." In the SS industries, in stone quarries, gravel pits, coal mines, underground armament plants, construction brigades, and camp workshops the laborers weltered in their bloody misery.

The labor economics of the defendants was not, however, designed simply to produce work, for had it been, far more could have been achieved by decent treatment of the workers. But an equally

important purpose of the SS, as a criminal organization, and of the WVHA, as an essential element of the SS, was the annihilation of so-called inferior peoples. Thousands were marked as "subhuman" and thereby slated for death for being Jews and Poles. But before they were to die they were to be driven, degraded, and damnified until death was a merciful delivery. Under the WVHA the typical concentration camp was not actually an extermination camp nor a labor camp, for either purposes could have been carried out quicker and much more efficiently. But they were the cruelest and most fiendish combination both of which could be devised by these defendants. Impossible physical exertion extracted under the whip of a mounted guard provided torture and ultimately death. This dichotomy in purpose of the slave labor program is also shown by the fact that senseless and useless labor, without any constructive purpose, was carried out continuously in the camps. Walls and even entire buildings were erected only to be torn down the following day, again to be rebuilt on the next. Prisoners were forced to carry huge rocks from one place to another, and on the following day to carry them back again. Contradictory purposes—profit and production, on the one hand, and torture and murder, on the other—made the search for manpower one of the most important parts of the concentration camp labor program.

In the work details both inside and outside the concentration camps, every inmate was utilized—political and criminal prisoners, the sick, the lame, those who had already been exhausted from overwork, clergymen, prisoners of war, women, and children. As an illustration, the fact that one-third of the workers in the SS industries were sick was put forward by one of the WVHA officials as an objection to a proposed increase in the charges for concentration camp labor. A file memorandum of 24 April 1944 on this subject stated:

"The prisoners receiving a pay of RM 0.25 per working day are those who can only be employed on a very limited scale. They are all sick people engaged in the manufacturing of weaving and plaiting products in the plants of Auschwitz, Dachau, Neuengamme, and Stutthof. Consequently about one-third of the DAW workers are already excluded from a pay raise for prisoners in the sense of the letter received."

Priests of Polish and Lithuanian nationality were worked and used on all kinds of labor pursuant to an order of Himmler. However, the order mercifully provided that German, Dutch, and Norwegian priests were to be employed only in gardening work. But, even gardening work in the concentration camps was deadly and consisted primarily of carrying stone and earth. Work-

ers were forced to carry tremendous loads, on the double, under the constant scrutiny of guards. Dogs were set upon those who fell behind. Many were shot while working; many others died from beatings and attacks by the dogs. Nevertheless, gardening was considered one of the better assignments.

Simply to obtain another source of slave labor, prisoners of war were placed in concentration camps upon the slightest pretext. An order of Mueller of 30 March 1943 provided that escaped Russian prisoners of war were to be sent to concentration camps if they stole bread at night while making their escape. By 1944 no reason whatever was given in many cases for transferring prisoners of war into the custody of the WVHA other than that workers were needed. As an example, Himmler sent the following telegram to SS Gruppenfuehrer Fegelein on 6 August 1944:

“Find out what the Polish officers still in the prisoners of war camp are doing. Have they been assigned to work or not? If not, I suggest that they be transferred to the concentration camps immediately and be assigned to work as prisoners.”

Under the most inhumane conditions prisoners of war were used in munitions factories, coal mines, and stone quarries. On 30 September 1944, Himmler officially recognized the extensive use of prisoners of war by the WVHA and ordered that their mobilization would be coordinated with Pohl and Berger in joint action with the then existing labor mobilization offices.

The work of women and children was also a part of the labor program of the WVHA. On 6 January 1943, Himmler wrote to Pohl as follows:

“In operations against guerilla troops, men, women, and children suspected of guerilla activities will be rounded up and shipped to the camps in Lublin or Auschwitz.

“The Higher SS and Police Chiefs will arrange the shipments with the Chief of the Security Police, the Chief of the SS Economic and Administrative Main Office, and the Inspector of the Concentration Camps. The Chief of the SS Economic and Administrative Main Office, in agreement with the Chief of the Security Police and SD, suggest the establishment of collective camps for children and adolescents in Lublin. In these camps a racial and political examination will take place. Racially worthless adolescents, male and female, will be assigned as apprentices to the economic enterprises of the concentration camps.

“Children will have to be brought up. This will be done by teaching them obedience, diligence, unconditional subordination, and honesty towards their German masters. They will do sums to one hundred, learn to recognize traffic signs, and be prepared

for their special occupations as farm workers, locksmiths, stonemasons, joiners, etc. The girls will be trained as farmworkers, weavers, spinners, knitters, and for similar jobs."

Women were used in the most exacting labor, and even in the deadly construction commandos, pursuant to Pohl's request. On 24 May 1944 Pohl sent the following telegram to Himmler:

"The first transportation of Jews from Hungary show that about 50 percent of the Jews who are fit to work are women. Since there is not sufficient adequate purely female work available for this large number of women, we must put them to work for OT construction projects. Your approval is requested. The OT [Todt organization] agrees."

Himmler replied:

"Of course Jewish women are to be used for labor. In this case one has merely to provide a healthy diet. Here a diet with raw vegetables is important. Be sure to import garlic from Hungary in sufficient quantity."

The ever-present problem for the WVHA was to obtain replacements as fast as the inmates were killed or disabled in the work program. It is an almost unbelievable fact that workers were killed by overwork, mistreatment, and malnutrition at such a rate that it was impossible for the apprehension agencies to replenish the workers as fast as they died. Rudolf Hoess, chief of Amt D I, has estimated that in the industries with particularly severe working conditions, as in the mines, 20 percent of the workers each month either died at their work or were sent back for extermination because of inability to work.

The dilemma became so acute that the chief of the Security Police and SD made the following complaint to Pohl in December 1942:

"In answer to the letter addressed to the Reich Leader SS and Chief of the German Police, a copy of which was sent to me by the Adjutant's Office of the Reich Leader SS, I have to inform you that in the meantime measures have been taken to increase the total number of prisoners in the concentration camps.

"As soon as these measures are completed I shall give other instructions. But I should like, however, to point out in this connection that because of the great number of deaths in the concentration camps, it was impossible to increase the total number of prisoners, in spite of the increased numbers sent to them recently, and that with a constant or even increasing death rate, it is unlikely that an improvement can be effected even by sending an increased number of prisoners."

Similarly, in the same month, the medical office of the WVHA,

Amt D III, complained in a letter to the camp doctors of all the concentration camps:

"In the enclosed a compilation of the current arrivals and departures in all the concentration camps is sent to you for your information. It discloses that out of 136,000 arrivals about 70,000 died. With such a high rate of death the number of the prisoners can never be brought up to the figure as has been ordered by the Reich Leader SS."

On 20 August 1942, the camp physician at Buchenwald made the following request in the interest of saving paper:

"It is requested to examine whether it is necessary to issue reports of the death of political Russians * * * as political Russians form the greatest number among the dead prisoners at the present time, more time and paper could be saved if these death reports were dropped."

One source of concentration camp inmates was the Reich Ministry of Justice. On 18 September 1942 Himmler and the Minister of Justice conferred at Himmler's field command post. A captured file memorandum by the minister records that one of the items of agreement was that certain prisoners should be delivered by the Ministry of Justice to the SS to be worked to death. On this point, the memorandum reads:

"The delivery of anti-social elements from the execution of their sentence to the Reich Leader of the SS to be worked to death. Persons under protective arrest, Jews, gypsies, Russians, and Ukrainians, Poles with more than 3-year sentences, Czechs and Germans with more than 8-year sentences, according to the decision of the Reich Minister for Justice. First of all the worst anti-social elements among those just mentioned are to be handed over."

Shortly after this conference the minister wrote to Reichsleiter Bormann:

"With a view to freeing the German people of Poles, Russians, Jews, and gypsies and with a view of making the Eastern territories which have been incorporated into the Reich available for settlements for German nationals, I intend to turn over criminal proceedings against Poles, Russians, Jews, and gypsies to the Reich Leader SS. In so doing I base myself on the principle that the administration of justice can only make a small contribution to the extermination of members of these peoples."

A report on the progress of this undertaking was made to Pohl by the chief of the Security Police and SD on 31 December 1942. The latter, in describing his efforts to increase the total number of inmates in the concentration camps, stated that 12,000 prisoners had been named by the Justice Ministry, that some had

been transferred, and that subordinate agencies have orders to transfer an additional 35,000 prisoners. Correspondence during March and April 1943 between Pohl and Himmler shows that the SS was not failing in its task of working these prisoners to death. Pohl reported that the death rate of prisoners transferred from the Justice Ministry was an average of 30 percent per year and even higher in Mauthausen. Out of 10,191, such prisoners, Mauthausen received 7,587 and 3,306 had died by the first of the year.

Theoretically, the RSHA had jurisdiction over internment of inmates, length of sentence, and release from the camp. In practice, however, the economic purposes of the WVHA prevailed over the punitive objectives of the RSHA. Release of workers who were employed at so-called "important work locations" was first cleared with the WVHA. SS victims were sent to the camps by the thousands without any regard for penal consideration and for no other purpose than increasing the number of slave laborers. So-called inferior races were herded into the camps by the thousands without any pretext of charges. As an example, Himmler wrote to Gluecks, in January 1942, as follows:

"As no more Russian prisoners of war are expected in the near future, I shall send to the camps a large number of Jews and Jewesses who will be sent out of Germany. Make the necessary arrangements for the reception of 100,000 male Jews and up to 50,000 Jewesses into the concentration camps during the next 4 weeks. The concentration camps will have to deal with major economical problems and tasks in the next weeks. SS Gruppenfuehrer Pohl will inform you of particulars."

In the summer of 1942, Russian workers were transferred to concentration camps in such numbers that the WVHA, with all of its bookkeeping facilities, was unable to keep a record even by serial number of their arrival or transfer. On 1 August 1942, the chief of Amtsgruppe D sent the following order to the commanders of concentration camps:

"According to a communication from the Reich Security Main Office in the letter referred to above, the Technical Office of the Reich Security Office Main Office will register the transferred Soviet Russian civilian workers only in numbers. There will be no special treatment of each individual case.

"In order to save paper and labor I, therefore, direct that neither the arrival of such a prisoner nor his transfer into another camp is to be individually reported; moreover, no camp index cards are to be made out and sent to the Reich Security Main Office office IV C 2. Reports to this office are not to be made either."

It is obvious that the absence of individual records of the prisoners made administration of any penal policy impossible whether the end be reformation, deterrence, or even incapacitation.

* * * * *

The WVHA was connected intimately in a variety of ways with the cruelty, torture, and murders which particularly characterized the slave labor program in the building of armaments. Both Amtsgruppe C, in charge of construction, and Amtsgruppe W, in charge of the SS industries, were engaged in the actual construction of armaments, and each had its own munitions program, using inmate labor supplied by Amtsgruppe D on a gigantic scale. In addition, the WVHA supplied thousands of workers to private industries engaged in the manufacturing of armaments. Finally, the WVHA worked in close cooperation with the highest Reich officials in the armament program—Goering,* Speer,* Sauckel,* Saur, and Waeger. I shall briefly refer to each of these phases of armament construction.

Amtsgruppe C, under Kammler and his deputies, Eirenschmalz, Kiefer and Busching, not only constructed plants for other agencies on a gigantic scale but in addition Kammler was given overall authority for producing V-1 and V-2 weapons at concentration camp Nordhausen-Dora. The giant munitions plant was constructed underground to escape allied bombings and was located on the outskirts of Nordhausen, 125 miles southwest of Berlin. Approximately 80,000 slave laborers were used at Dora and they were forced to work, eat, and sleep in the darkness of the subterranean tunnels, and were driven 14 hours a day along the 31 miles of railroad track in the underground factories. The tempo of work was deadly and the living conditions unbearable. Literally thousands of inmates were murdered on this project. One transport of unfortunates after another left Buchenwald and nearby camps for Dora—never to return. The V weapons were a specialty of the SS and of the WVHA and were constructed upon the lives of those foreigners whose countries were to be destroyed by them.

Amtsgruppe W, under the supervision of the defendants Pohl, Georg Loerner, Baier, Volk, and Mummmenthey, also used inmate labor on a wide scale and under the most inhumane conditions in manufacturing armaments in its Amt IV plants, which were located in almost every camp under the WVHA, including Auschwitz, Buchenwald, Dachau, Lublin, Ravensbrueck, Sachsenhausen, and Stutthof. As an example, in plants of the DEST industry,

* Defendants before International Military Tribunal. See Trial of the Major War Criminals, *op. cit. supra*, vol. I-XLII.

directly managed by the defendant Mummenthey of Amt W II, airplane parts were manufactured by inmates at Flossenbuerg and Mauthausen, planes were assembled by inmates at Hertogenbosch, and air torpedoes were welded by inmates at Natzweiler. More detailed reference will be made to these firms in the discussion of the SS industries.

Private armament firms, as well as many other types of industries, were supplied with laborers from concentration camps by Amtsgruppe D. One of the largest private employers was the I.G. Farbenindustrie, which was given priority on prisoners for its Buna plant over all other armament plants. At Goering's request eight to ten thousand inmates were used in constructing the Buna plant in 1941. The largest labor camp in Auschwitz, containing 7,000 inmates, was attached to the Farben plant. Numerous other Farben plants were also supplied with inmate labor by Amtsgruppe [Amt] D II. Hermann Goering Works, Krupp, Siemens-Schuckert, and Flick were also among the large employers of inmates.

Close liaison was maintained by order of Speer among the highest officials in the Reich Ministry for Armament and War Production, the Office of the Plenipotentiary General for Allocation of Labor, Sauckel, and the WVHA. The policy of the WVHA was to allocate concentration camp labor through the former agencies in groups of not less than 1,000 male inmates or 5,000 female inmates. If one concern was not able to use an entire lot of inmates, several collectively applied for the allocation. The WVHA also worked in close cooperation with Saur, the head of the technical office of armament production in the Speer Ministry, in building tank engines for the Jaeger program, and with members of the Central Planning Board in building armament plants. Fifteen extensive plans for the construction of subterranean plants for the airplane industry were carried out by Amtsgruppe C with concentration camp prisoners in cooperation with the Armament Commission and the Plenipotentiary General for Construction in the Reich Aviation Ministry. In March 1944, in a top secret letter to Reich Marshal Goering, Himmler summarized the activities of the WVHA in the aviation industry. Himmler's letter read as follows:

"Most honored Reich Marshal:

"Following my teletype letter of 18 February 1944 I herewith transmit a survey on the employment of prisoners in the aviation industry.

"This survey indicates that at the present time about 36,000 prisoners are employed for the purposes of the air force. An increase to a total of 90,000 prisoners is contemplated.

"The production is being discussed, established, and executed between the Reich Ministry of Aviation and the chief of my Economic-Administrative Main Office, SS Obergruppenfuehrer and General of the Waffen SS, Pohl, respectively.

"We assist with all forces at our disposal."

Continuing the quotation from Himmler's letter to Goering:

"The task of my Economic-Administrative Main Office, however, is not solely fulfilled with the delivery of the prisoners to the aviation industry as SS Obergruppenfuehrer Pohl and his assistants take care of the required working speed through constant control and supervision of the work groups [*Kommandos*] and therefore have some influence on the results of production. In this respect I may suggest consideration of the fact that in enlarging our responsibility through a speeding up of the total work, better results can definitely be expected.

"We also have for some time adjusted our own stone quarries to production for the air force. For instance, in Flossenbuerg near Weiden the prisoners employed previously in the quarry are working now in the fighter plane program for the Messerschmitt corporation, Regensburg, which saw in the availability of our stonemason shops and labor forces after the attack on Regensburg at that time a favorable opportunity for the immediate partial transfer of their production. Altogether 4,000 prisoners will work there after the expansion. We produce now, with 2,000 men, 900 sets of engine cowlings and radiator covers as well as 120,000 single parts of various kinds for the fighter Me-109.

"In Oranienburg we are employing 6,000 prisoners at the Heinkel works now for construction of the He-177. With that we have supplied 60 percent of the total crew of the plant.

"The prisoners are working without fault. Up until now 200 suggestions regarding the improvement of work have been handed in at Heinkel from the ranks of the prisoners, which were used and were rewarded with premiums. We are increasing this employment to 8,000 prisoners.

"We also have employed female prisoners in the aviation industry. For instance, at the mechanical workshops in Neu-Brandenburg 2,500 women are working now in the manufacture of devices for dropping bombs and rudder control. The plant has adjusted the total serial production to employ prisoners. In the month of January, 30,000 devices, as well as 500 rudder controls and altitude regulators have been manufactured. We are increasing employment to 4,000 women. The performance of the women is excellent."

Still reading from Himmler's letter to Goering:

"In our own plant in Butschowitz near Bruenn [Brno] we produce also for the air force. There, however, with civilian workers. This plant supplied 14,000 wooden-built rear control apparatus for Me-109 to the Messerschmitt corporation, Augsburg.

"The movement of manufacturing plants of the aviation industry to subterranean locations requires further employment of about 100,000 prisoners. The plans for this employment on the basis of your letter of 14 February 1944 are already under way.

"I shall keep you, most honored Reich Marshal, currently informed on this subject."

In addition to the double role which Amtsgruppe C played in the armament industry, it was responsible for two other model achievements in construction; the construction of concentration camps and crematoriums—cold, damp, vermin-infected huts, and well-constructed murder chambers which extended for blocks. The existence of the crematoriums was a closely-guarded secret and the camp commander of Mauthausen concentration camp has related that an order existed to the effect that every 3 weeks the detail of inmates working in the crematorium was to be shot. Another project under Amtsgruppe C was the construction of a secret Fuehrer headquarters near Ohrdruf. The project was known by the code name S III. The defendant Sommer himself went to Buchenwald to select the inmates for this important work. The strength of the project, which was commenced in November 1944, reached 13,000 by 27 March 1945 and hundreds of inmates were killed by overwork and mistreatment.

Various other construction projects were carried out by Amtsgruppe C. The so-called "A" projects were underground work detachments, designated A-1, A-2, A-3, etc. Construction of these projects included the enormous undertaking of moving the munitions industries underground and cost the lives of thousands of inmates. The "B" projects were surface work details. "S" projects were secret building detachments, such as the one at Ohrdruf, and the "V" projects already described, involved production of secret weapons.

Amtsgruppe C was the largest user of concentration camp inmates. Kammler was constantly on the search for new manpower for his construction brigades. On 10 March 1942 he wrote to Gluecks, chief of Amtsgruppe D:

"In view of the increasing shortage of civilian workers the execution of the construction tasks devolving upon the SS Economic-Administrative Main Office in the 3d year of war,

1942, requires the employment of an increased number of prisoners, prisoners of war, and Jews.

“Although through the operation ‘Heinrich’ a certain number of German construction firms and skilled workers have already been secured for construction projects in the Eastern territory for the establishment of supply depots, it is, nevertheless, essential that prisoners, prisoners of war, Jews, etc., be kept in readiness as helpers for the jobs in all circumstances.”

The evidence will show that the defendants Eirenschmalz and Kiefer, as members of the Amtsgruppe C, played a vital part in this construction program and are responsible for the mistreatment, torture, and murder of untold hundreds of concentration camps inmates.

THE SS INDUSTRIES

One of Himmler’s principal ambitions for the WVHA was that it would eventually make the SS economically independent, both from the State and from the Party. The SS was to become a “state within a state” industrially and commercially, as well as politically and militarily. Here again as in other aspects of German life, the basis of industrial organization was to be the National Socialist philosophy. The economic system of this elite group was to be based upon racial and political selection, reinforced by military organization, and individually motivated by a characteristically corrupted conscience and a desire for personal enrichment. The cornerstone of the new economic order was to be slave labor and spoliation—exploitation, and even extermination through work of so-called inferior people; and expropriation of valuable industries in the occupied countries.

The development of the SS industries was entrusted to Amtsgruppe W of the WVHA. The Amtsgruppe was designated “W” from “Wirtschaft” which means economy. The importance of Amtsgruppe W was emphasized by the fact that Pohl and his deputy, Georg Loerner, were themselves directly in charge of the Amtsgruppe and were principal managers of the parent holding company, German Economic Enterprises, Ltd., commonly known as DWB. However, the operation of the SS industries was both too intensive and too extensive to be supervised to any substantial degree by Pohl and Loerner. The bulk of the supervising work was carried on by members of staff W including Hohberg, Baier, and Volk, and the chiefs of the Aemter, including Mummenthey, Bobermin, and Klein.

These were the men of commerce of the new order—the elite

industrialists. It was their goal to carry the economics of business efficiency to the Nazi terminus. Fanatical Nazis turned into fanatical businessmen, and their business was profit for the SS state and for themselves through the fraudulent income of the SS industries. In order that German economic life could be recast and rebuilt on the SS pattern, entrepreneurs were trained in the WVHA industries, and schools for business administration were established where SS principles of commerce were taught. The defendant Baier, later to become the chief of staff W, was in charge of such a school, known as the "Junkerschule Toelz" and as the "SS Fuehrerschule-Verwaltung". Indeed, one of the most enlightening of the captured WVHA documents is a memorandum which was to be used by the defendant Fanslau as material for a lecture in the SS training schools and which explains the political and economic rationale of the SS industries. The memorandum was submitted to Fanslau on behalf of the defendant Volk, legal advisor to Pohl and member of staff W. It explains that the purpose of the SS industries was—

"to get hold of all anti-social elements, which no longer had a right to live within the National Socialist state, and to turn their working strength to the benefit of the whole nation. This was effected in the concentration camps. The Reich Leader SS, therefore, delegated SS Obergruppenfuehrer Pohl to set up concentration camp enterprises, in addition he gave orders to establish companies on a private economy basis for the purpose of employing the prisoners.

"National Socialism maintains this point of view: The State gives orders to the economy. The State does not exist for the benefit of economy, but economy exists for the benefit of the State."

* * * * *

Brief examination of the organization of Amtsgruppe W and of its several Aemter will illustrate how closely connected were each of the industries with the administration of the concentration camps and the slave labor program, and how closely their purposes coincided with those of the SS state.

The structure of Amtsgruppe W was based upon Pohl's conception of military organization and the Fuehrerprinzip. The individual economic enterprises maintained by the SS were headed by the Offices W I to W VIII. They in turn, were subordinate to staff W, which was responsible to the chief and deputy chief of the Amtsgruppe.

Viewing Amtsgruppe W from the standpoint of private economy, into which the SS industries had to be fitted for purposes of commercial law, registration, and taxation, the parent holding

company, the German Economic Enterprises, Ltd., commonly known as DWB, stood at the head of the various W industries. Within the DWB, Pohl was managing director and Georg Loerner was second managing director. The defendant Volk was executive manager. The chief of staff W held the position of economic adviser to the managing director. He had immediate supervision over the directors of the DWB, the auditing and legal departments, tax affairs, and questions concerning plant management. All communications to the highest Party offices, ministries, and central authorities had to go through the chief of staff W. This position was occupied by the defendant Hohberg until August 1943, thereafter by the defendant Baier. The chief of each of the eight Aemter occupied the position of assistant to the managing director and was the principal member of the board of directors of the companies under the control of his particular Amt. Pohl, as the managing director of the DWB, had the power of appointment and dismissal of the chiefs and deputy chiefs of the Aemter, and had exclusive power to establish, acquire, sell, and dissolve subsidiaries; and to appoint and dismiss managers and members of the boards of directors of the subsidiary companies. The code of procedure, or bylaws, of the DWB was binding upon each of its subsidiaries in which it had a direct or indirect share of 50 percent of the capital and upon all enterprises under the administration of the WVHA. The organization of this giant combine and of its subsidiaries was designed to achieve a synthesis of the theories of industrial management with the principles of Party, State, and military organization.

In addition to the duties of staff W, which have already been mentioned, control and management of five subsidiary industries was the direct responsibility of this group. These were, in addition to the Ostindustry, which will be dealt with in connection with the part it played in the Jewish extermination program, the Public Utility Dwelling and Homestead Ltd., Dachau (Gemeinnuetzige Wohnungs- und Heimstaetten GmbH), House and Real Estate Ltd., Berlin (Haus- und Grundbesitz GmbH), and German Medicines Ltd., Prague (Deutsche Heilmittel GmbH). A fifth company, the Sales Office of Berlin Furniture Factory Ltd., (Verkaufsstelle Berliner Moebelwerkstaetten GmbH), was liquidated in 1943. Additionally, it was the function of staff W to collaborate with Amtsgruppe D in negotiating for, appraising and acquiring sites for concentration camps in which DAW plants were to be located. Typical of this function of staff W was the negotiation by the defendant Volk for the site for concentration camp Stutthof. Also typical was an arrangement by the defendant Hohberg, as chief of staff W, for participation by the WVHA

with the Hermann Goering Works in establishing a klinker factory at Linz. Hohberg, in this instance, arranged for the raw material to be supplied by the Hermann Goering Works and for the WVHA to build the factory and supply the inmates from the concentration camp Mauthausen; the profits were to be divided equally between the Goering Works and the WVHA. Participation by Mumenthey, as chief of Amt W I, and representatives from Amtsgruppe C and D in these particular negotiations illustrate the close cooperation among all the officials of the WVHA.

Staff W also assisted Pohl in determining the amount which each of the SS industries was to set aside for payment for the use of concentration camp labor. Each SS industry put aside an amount ranging from 30 pfennigs to 5 Reichsmarks per day, ostensibly to be used as prisoner's wages. However, it was never even considered that the inmate should receive any part of the sum. "Legally" such "wages" belonged to the Reich treasury. Various schemes, however, were utilized by staff W to enable the WVHA illegally to retain a substantial part of the funds. A file memorandum dated 23 March 1944 by the defendant Baier, at that time chief of staff W, states Pohl's attitude on this matter:

"The Hauptamtschef emphasized that he doesn't aim at letting the entire amount paid by the employer for the prisoner go to the Reich, but that part of it could serve other purposes."

Amtsgruppe D employed the same fraudulent methods in charging private firms for the use of inmate labor. Up to 8 RM was collected, but only a fraction turned over to the Reich.

One of the bookkeeping methods adopted by some of the SS industries for the purpose of evading their obligation to surrender their excess profits to the Reich was to increase the charge to themselves for inmate labor, to pay approximately half this amount to the Reich, and to set up the balance in an account called "Reserve for Prisoners' Wages". By this device the industries increased their apparent expenses for wages, thereby reducing their excess profits and the amount which they transmitted to the Reich. In a confidential profit analysis of the W industries, Dr. Wenner, an executive manager of the DWB, rationalized this system of bookkeeping as follows:

"In case the Reich or the corresponding Reich offices do not intend to *realize* this claim, a trustee of the DWB will take over the administration of these amounts in the trustee section. The control of these amounts rests with SS Obergruppenfuehrer Pohl in his capacity of representative of the Reich. * * * The only difference is that payment of taxes and surrender of profits will fall to the tax collector's office, while

a payment of the amounts to the trustee account will leave the control of the amounts in the hands of the SS WVHA.” These were the elite economists and plant managers who were chosen on the basis of race and blood and their readiness to give their lives for the Reich.

Instances of sordid practices could be multiplied—from looting the inmates of their money, watches, blankets, and clothing, to the spoliation of great industries in the occupied countries. As an instance, the camp commander at Mauthausen has explained how, in one of the camps, approximately a thousand inmates who had been engravers and lithographers by profession were used in the manufacturing of counterfeit foreign bank notes and identification papers and seals from all over the world.

At Dachau and Mauthausen, human skin of dead prisoners was used to make lamp shades, saddles, riding britches, gloves, house slippers, and ladies' hand bags. Tattooed skin was particularly valued by the SS men.

The WVHA even illegally appropriated laborers who were consigned to the Plenipotentiary General for Labor Allocation [Sauckel] and who had been recruited through “Action Sauckel” in the East as so-called free laborers. This occurred when transports from the East were sent by mistake to the concentration camps. Needless to say, the entire transport in almost every instance was kept in the concentration camp. What was the gain of the WVHA was Sauckel's loss, and that of the new emigre.

Even the execution and cremation of their victims became a matter of marks and pfennigs. A typical bill rendered by the commander of the concentration camp Natzweiler to the Security Police and SD reads as follows:

“The expenses for the 20 prisoners executed and cremated in this concentration camp amount to RM 127.05. The commander of the C.C. Natzweiler would be obliged for an early remittance of said amount.”

But perhaps the most sordid income of the WVHA was derived from the house of prostitution operated in the camps. An order by Pohl, dated 13 April 1943, provided that visitors to the brothels would be charged 2 RM, and that from this amount, the woman would receive 45 pfennigs and the matron 5 pfennigs. The remainder of 1.50 RM, or 75 percent of the proceeds, went to the WVHA. These were the businessmen of the SS.

I now turn to a brief description of the industries under the individual Aemter.

Amt W I, under the defendant Mummenthey, was in charge of stone and earthworks within the Reich. The largest industry under this Amt was the German Earth and Stone Works, Ltd.

commonly known as DEST. The DEST concern operated granite quarries in Mauthausen, Flossenbuerg, Gross-Rosen, and Natzweiler, a stone preparation plant at Oranienburg, a gravel dredging pit at Auschwitz, and brick factories at various camps. The DEST industry was organized in 1938 and was under the control of Mummenthey after September 1939. The preamble to its table of organization stated that it was to employ inmates from the concentration camps in the production of building material. The importance of this enterprise was emphasized by an order of Hitler in 1941 that the DEST industry, by the end of the war, should supply an amount of granite in excess of that supplied before the war by all German stone quarries combined; and by an order of Himmler to Pohl to train 5,000 stonemasons and 10,000 bricklayers.

Assignment to work in the DEST stone quarries was one of the most dreaded of the details. Prisoners were forced to attempt impossible tasks, such as pulling heavy carts up steep hills and carrying heavy stone. Every evening many invalid and severely injured workers were brought into the camp on stretchers. Thousands were killed by overwork, falling stones, beatings, shootings, deliberate pushing into the abyss, and other sports of the guards.

Also under the defendant Mummenthey were the Bohemia Ceramic Works, Ltd., and the Porcelain Factory Allach-Munich, Ltd., both using concentration camp labor on a large scale. The extent to which the latter industry relied upon prison labor is illustrated by a novel request which it made to staff W. In a letter of 22 December 1943, an official of the porcelain factory stated that the company had suffered a loss of 10,500 RM because, for a period of five weeks, it had been unable to obtain inmates from the Dachau concentration camp due to a typhus epidemic in that camp. Advancing a unique theory of contract liability, the official claimed that because the porcelain company relied exclusively upon concentration camp labor, staff W should reimburse the company for its loss.

Amt W II, under the defendant Bobermin, was established to operate the confiscated stone and earthworks in the East. As early as May 1940 Bobermin, as chief of what was then office III A II of the WVHA, was in charge of stone industries in the East. The defendant Volk was Bobermin's deputy at that time. In a report for the year 1940, Volk described the early activities of the WVHA in the East:

"The rough outlines of the construction of the Eastern territories were given by the Fuehrer himself in his decree dated 7 October 1939 which was not made public:

“The consequences of Versailles in Europe are removed. Due to this fact, the greater German Reich has been enabled to accept and settle, in her territories, German people who heretofore had to live abroad, and to form the settlement of the people’s groups within her spheres of interest in such a manner that better borderlines between them be achieved.’

“The Fuehrer conferred the execution of this task upon the Reich Leader SS by appointing him Reich Commissioner for Strengthening of Germanism. Thereby, it is the particular duty of the Reich Leader SS to form new German settlement areas by resettling, especially by settling the Reich Germans and racial Germans returning from abroad.

“In order to be able to perform this task, the Reich Leader SS had to safeguard above all, the whole production of building materials, for under the Polish Government houses worthy of human beings had not been erected at all, particularly not in the open country. The management of the works producing building materials, therefore, had to be transferred to Germans.

“For this reason, the Main Trustee Office East requisitioned all brickworks in the Incorporated Eastern Territories by order of the Reich Marshal, insofar as they were Jewish or Polish property, or insofar as less than 75 percent of the plants belonged to Reich or racial Germans, in the interest of defending the Reich in favor of the German Reich at the disposal of the Reich Commissioner for Strengthening of Germanism. The SS Gruppenfuehrer Oswald Pohl, chief of the Administrative and Economic Main Office with the Reich Leader SS and chief of the German police, was appointed trustee general with the powers of employing independently subtrustees and subdeputies. SS Gruppenfuehrer Pohl conferred the performance of this task upon the chief of his office III A, SS Standartenfuehrer Dr. Salpeter, since the latter was in charge of those brickworks which employed convicts, and thus some of recognized experts could be put at the disposal of the newly established Main division.”

The Golleschauer Portland-Zement A.G., under Amt W II was the first of the cement factories in the hands of the SS. It produced 200,000 tons yearly, and used inmates from the concentration camp Auschwitz. The cement company, together with two other large firms operating earth and stoneworks, glazed tile factories, lime and chalk factories in the East, were subsidiaries of Clinker Cement Ltd., which was in turn a subsidiary of DWB. Bobermin well described his activities in a letter to Himmler

which he drafted in July 1941 for Pohl's signature. It read in part:

"The seizure of brickworks in the East, which were formerly owned by Poles or Jews, for disposal of the Reich Commissioner for Strengthening of Germanism, was extraordinarily extensive, in order to bring as many plants into operation as possible, and to attain the highest possible production.

"313 brickworks with an estimated annual output of 600 million bricks were seized at the beginning of 1940.

"Out of these originally seized brickworks, four were returned to their owners who had meanwhile been recognized as racial Germans. Finally, some brickworks were handed over to the Reich Works Hermann Goering after negotiations—as these brickworks are in close operation—and economical connection with the mines secured by the Hermann Goering Works."

Bobermin's methods in acquiring Eastern earthworks are illustrated in a letter to Pohl on 2 April 1944, advocating that Amt W II take over the tileworks of Bonarka: [NO-1006, Pros. Ex. 449.]

"Within the city limits of Krakow, there are tileworks of Bonarka counted among the technically best works in the Government General. The annual production is about 14 million units. The brickworks are under the administration of the trusteeship of the Government General [GG].

"But considering that we have a technically well-equipped establishment, and that the men of the forced labor camp will be at our disposal at favorable conditions, we shall most likely show a profit. The main reason for the taking over is the sufficient supply of building material to the Waffen SS."

The evidence will also show in addition that part of the funds obtained from the infamous "Action Reinhardt," to be described at a later point, were placed at Bobermin's disposal. Office W III comprised the so-called nutrition firms and supplied provisions for concentration camps and troops. They too, used inmate labor and had operating branches in Oranienburg, Dachau, Auschwitz, Lublin, and in other camps.

Office W IV, under May and Opperbeck, controlled one of the largest SS enterprises, the German Equipment Works, commonly known as DAW. This firm originated in the concentration camp workshops, and was placed under Pohl's administration as early as 1936. During the war it was engaged principally in armament production and had branches in Auschwitz, Buchenwald, Dachau, Lublin, Ravensbrueck, Sachsenhausen, Stutthof, and other camps. Also included in office W IV were other large industries using inmate labor in the production of armaments.

Office W V was engaged in the utilization of concentration camp labor in agriculture, forestries, and fisheries. The scope of its activities was greatly enlarged by the acquisition of large fertile territories in the East. Farming, lumbering, and fisheries in Russia, farming and stock breeding in Poland, all became a part of SS economics under office W V.

The principal task of office W VI was the operation of textile and leather plants in the concentration camp Ravensbrueck. Clothing for inmates and troops was manufactured there. An adequate explanation of the activities of Amt W VII is found in Fanslau's lecture material quoted earlier:

"The circle of the economic enterprises of the SS would not have been completed if it did not also have a great publishing office to introduce the ideological views of the SS to its SS members and further to additional circles of the population. The Nordland Publishing House GmbH had developed a great deal during the last year, now belongs to the main publishing firms, and already today occupies the fifth place among the main publishing firms of the greater German Reich. Besides this Nordland publishing firm, we have the Voelkischer Kunstverlag, which in the main, produced pictures, e.g., photographs of the Fuehrer, the Reich Leader SS, and other important personalities from Party and State. In addition, it produces reproductions of oil paintings."

The activities of the defendant Klein and his special tasks office (W VIII) have been dealt with earlier when it was pointed out that his enterprises used concentration camp labor under the most cruel and inhuman conditions. The evidence will show that in spite of the ostensibly cultural purpose and nature of his projects, the defendant Klein, as well as the other defendants, was responsible for the death of numerous inmates.

In the SS industries, production and profit were valued far more highly than human life. To the SS man by training the concentration camp slave was mere human debris. He was worth less than the mechanical tools of production. A hoe, or a hod, or a hammer was more highly valued. They were not expendable, but human beings were.

EXTERMINATION OF THE JEWS

MR. MCHANEY: The systematic and relentless annihilation of the Jewish people by the Nazis constitutes one of the blackest pages in the history of the civilized world. This mad program of wholesale slaughter also included other groups considered racially inferior, such as the Poles, but the Jew was especially marked for destruction. This crime of genocide was part of the Nazi doctrine

of total warfare, war waged against populations rather than against states and armed forces. One must search as far back as the massacres by Genghis Khan and by Tamerlane to find anything remotely comparable to the extermination of the Jews by the Nazis. Hans Frank, former Governor General of the occupied Polish territories and a defendant before the International Military Tribunal, spoke the truth when he testified: "A thousand years will pass and this guilt of Germany will still not be erased".

An introduction to this crime of mass murder and the part played in it by the WVHA and these defendants can perhaps best be given in the words of Reich Leader SS Himmler. On 4 October 1943, he said to a meeting of SS Gruppenfuehrers at Poznan:

"I also want to talk to you quite frankly on a very grave matter. Among ourselves it should be mentioned quite frankly and yet we will never speak of it publicly. Just as we did not hesitate on 30 June 1934 to do the duty we were bidden and stand comrades who had lapsed, up against the wall and shoot them; so we have never spoken about it and will never speak of it. It was that tact which is a matter of course and which, I am glad to say, is inherent in us that made us never discuss it among ourselves, never speak of it. It appalled everyone, and yet everyone was certain that he would do it the next time if such orders are issued and if it is necessary."

"I mean the clearing out of the Jews, the extermination of the Jewish race. It's one of those things. It is easy to talk about —'the Jewish race is being exterminated,' says one Party member, 'that's quite clear, it's in our program, elimination of the Jews and we're doing it, exterminating them.' And then they come, 80 million worthy Germans, and each one has his decent Jew. Of course the others are vermin, but this one is an A-1 Jew. Not one of all those who talk this way has witnessed it, not one of them has been through it. Most of *you* must know what it means when one hundred corpses are lying side by side, or five hundred, or a thousand. To have stuck it out and at the same time—apart from exceptions caused by human weakness—to have remained decent fellows, that is what has made us hard. This is a page of glory in our history which has never been written, for we know how difficult we should have made it for ourselves, if—with the bombing raids, the burdens, and the deprivations of war—we still had Jews today in every town as secret saboteurs, agitators, and trouble-mongers. We would now probably have reached the 1916-17 stage when the Jews were still in the German national body.

"We have taken from them what wealth they had. I have issued a strict order, which SS Obergruppenfuehrer Pohl has carried out, that this wealth should, as a matter of course, be handed over to the Reich without reserve."

And so the arm of destruction was the SS. On 31 July 1941 Heydrich, chief of the Security Police and SD, was charged with the "final solution" of the Jewish question in the German sphere of influence in Europe. With the advance of the German armies in Russia, Einsatzgruppen of the Security Police and SD murdered Jews and Communist intellectuals by the hundreds of thousands. The slaughter was so wanton and sadistic that one administrative official of the Reich Minister for the occupied territories was prompted to write:

"I have forbidden the wild executions of Jews in Liepaja [Lepaya] because they were not justifiable in the manner in which they were carried out.

"I should like to be informed whether your inquiry of 31 October is to be regarded as a directive to liquidate all Jews in the East? Shall this take place without regard to age, sex, and economic interests (of the Wehrmacht, for instance in specialists in the armament industry)?"

The answer came back that "economic considerations should fundamentally remain unconsidered in the settlement of the problem" and that "questions arising (should) be settled directly with the Higher SS and Police Leaders". Cases were reported where persons who had been shot worked themselves out of their graves some time after they had been covered.

* * * * *

The extermination of the Jews was not limited to the Einsatzgruppen. Indeed, the slaughter in the charnel houses of Auschwitz, Treblinka, Majdanek, Belsec, and Sobibor was on a vaster scale. These extermination camps were all located in Poland. After the invasion of Poland, all Jews were forced to register, live in ghettos, and wear the yellow star. The "final solution" of the Jewish problem could be resolved, therefore, with almost assembly line precision. Train loads of Jews were evacuated from the ghettos to such camps as Auschwitz where the test of life or death was physical ability to work. Hoess, the commandant of Auschwitz until 1 December 1943, described the screening process in the following language:

"We had two SS doctors on duty at Auschwitz to examine the incoming transports of prisoners. The prisoners would be marched by one of the doctors who would make spot decisions as they walked by. Those who were fit for work were sent into the camp. Others were sent immediately to the extermination

plants. Children of tender years were invariably exterminated since by reason of their youth they were unable to work. Still another improvement we made over Treblinka was that at Treblinka the victims almost always knew that they were to be exterminated and at Auschwitz we endeavored to fool the victims into thinking that they were to go through a de-lousing process. Of course, frequently they realized our true intentions and we sometimes had riots and difficulties due to that fact. Very frequently women would hide their children under their clothing, but of course, when we found them we would send the children in to be exterminated."

From 3 March 1942 until the end, Auschwitz was one of the many concentration camps under the jurisdiction of the WVHA. The great influx of Jews in 1942 apparently so overtaxed the facilities at Auschwitz that the defendant Pohl, in November of that year, wrote to the Reich Minister of Finance in an effort to have the camp enlarged.

Extermination centers similar to Auschwitz existed at Treblinka, Majdanek, Belzec, and Sobibor in the vicinity of Lublin. There the procedure was the same. The victims were stripped of their clothes, money, and valuables. The hair of the women was cut off, later to be manufactured into mattresses. Then, herded like so many cattle, the naked men, women, and children were driven to their death in the gas chambers. Gold teeth were pulled from the mouths of the corpses. An attempt was even made to manufacture soap from the fatty parts of the bodies, while the ashes remaining after cremation were used for fertilizer. This was indeed a gruesomely commercial exploitation of death on a mass basis.

In this compounded crime of genocide, the WVHA played a very essential part. This extermination of peoples, this mass deportation of slave labor in concentration camps, gave rise to the confiscation, or to put it more precisely, the theft of property on a gigantic scale. To the defendant Pohl and his collaborators in the WVHA fell the task of collecting that property and mustering those slaves for use by the Third Reich.

As to Auschwitz, no problem existed as it was already under the control of the WVHA. As to the operations of the Einsatzgruppen and the Higher SS and Police Leaders in occupied Europe, however, new administrative machinery had to be created by Pohl. In August 1942, with the approval of Himmler, he appointed SS economic administrators to be attached to the staffs of the Higher SS and Police Leaders. Among other things, it was the duty of the SS economic administrator to hold all booty and raw material for disposal by the WVHA. He had supervisory rights over all

concentration and labor camps under the jurisdiction of the Higher SS and Police Leader. Allocations of labor were directed by him and economic enterprises were under his supervision. Executions in concentration camps had to be reported to him and then to the WVHA.

The extermination camps in the vicinity of Lublin, such as Treblinka and Majdanek, gave rise to special problems because of the magnitude of their operations. These camps were, until the latter part of 1943, under the jurisdiction of one Odilo Globocnik, the Higher SS and Police Leader, Lublin. In order to coordinate the undertaking, a special staff "G" was created within the framework of the WVHA. The head of this staff was Globocnik while the administrative and accounting personnel was supplied by the WVHA. It was the task of special staff "G" to seize and account for all property in the Government General of occupied Poland derived from the extermination and enslavement of Jews. This ghoulis program was called "Action Reinhardt" presumably in honor of Reinhard Heydrich who was assassinated in the summer of 1942.

In order to appreciate the extent of Action Reinhardt and the criminal participation of the WVHA in carrying it out, it will be convenient to consider the action in three steps; first, the deportation of Jews; second, the exploitation of personal property; and third, the exploitation of Jewish manpower and industrial equipment.

The removal of Jews from the Warsaw ghetto for extermination or enslavement in the camps of Lublin is a typical example of the deportation phase of Action Reinhardt. The final destruction of the Warsaw ghetto in April and May 1943 was one of the most horrible chapters in Jewish persecution.

The ghetto was established in Warsaw in November 1940. It was separated from the rest of the city by the walling up of streets, windows, doors, open spaces, and the like. Approximately 400,000 Jews were forced to live within its confines. Conditions were such that there was only one room for every six persons.

The first large evacuation of Jews from Warsaw to the extermination centers took place between 22 July and 3 October 1942. In this action over 300,000 were removed.

In a secret memorandum dated 9 October 1942, Himmler ordered Pohl and SS Obergruppenfuehrer Krueger, the Higher SS and Police Leader East, to assemble in concentration camps in Warsaw and Lublin all Jews working in shoe, fur, and tailor shops. Jews working in actual armament firms were to be replaced gradually and segregated in a few concentration camp factories in the eastern part of the Government General. Himmler concluded

with the statement that: "Of course, there too, the Jews shall someday disappear, in accordance with the Fuehrer's wishes." In January 1943, Himmler made a visit to Warsaw and to his great amazement discovered that 40,000 Jews were still in the ghetto. Many of them were working in textile and fur plants contrary to his order of 9 October 1942. He instructed Krueger and Pohl to transfer them immediately to Lublin. On 16 February this order was amplified to include all Jews and all private enterprises in the Warsaw ghetto. Himmler was angry because private employers in the ghetto were profiteering from cheap Jewish labor and he wanted this benefit to accrue to the SS. As I shall explain a little later, Pohl immediately took steps to form a company for the purpose of employing the Jewish manpower and exploiting the industries in Lublin.

Himmler further ordered Krueger to submit plans for the complete destruction of the ghetto. He said:

"For the razing of the ghetto, a master plan is to be submitted to me. It must be achieved, in any case, that the existing living space for 500,000 sub-humans, which will never be suitable for Germans, disappears from the picture, and that the metropolis of Warsaw, which is always a dangerous focal point of disintegration and mutiny, be reduced in size.

A graphic description of the end of the ghetto is in the report of Juergen Stroop,* Higher SS and Police Leader in Warsaw, who supervised the final deportation action under Krueger. The original plan was to transfer to Lublin the armament factories and other enterprises of military importance which were situated within the ghetto, together with the personnel and machines, in three days. The hapless Jews, well aware of the fate in store for them, put up such a heavy resistance that, instead of three days, the action lasted from 19 April to 16 May 1943. Stroop said:

"The resistance put up by the Jews and bandits could be broken only by relentlessly using all our force and energy by day and night. *On 23 April 1943 the Reich Leader SS issued through the Higher SS and Police Fuehrer East, of Krakow, his order to complete the combing out of the Warsaw ghetto with the greatest severity and relentless tenacity.* I therefore decided to destroy the entire Jewish residential area by setting every block on fire, including the blocks of residential buildings near the armament works. One concern after the other was systematically evacuated and subsequently destroyed by fire. The Jews then emerged from their hiding places and dugouts in

* See selections from Pictorial Report on Destruction of Warsaw Ghetto, p. 631.

almost every case. Not infrequently the Jews stayed in the burning buildings until, because of the heat and the fear of being burned alive, they preferred to jump down the upper stories after having thrown mattresses and other upholstered articles into the street from the burning buildings. With their bones broken, they still tried to crawl across the street into blocks of buildings which had not yet been set on fire or were only partly in flames. Often the Jews changed their hiding places during the night by moving into the ruins of burned-out buildings, taking refuge there until they were found by our patrols. Their stay in the sewers also ceased to be pleasant after the first week. Frequently from the street, we could hear loud voices coming through the sewer shafts. Then the men of the Waffen SS, the police, or the Wehrmacht engineers courageously climbed down the shafts to bring out the Jews, and not infrequently they stumbled over Jews already dead, or were shot at. It was always necessary to use smoke candles to drive the Jews out. Thus one day we opened 183 sewer entrance holes and at a fixed time, lowered candles into them with the result that the bandits fled from what they believed to be gas to the center of the former ghetto. They could then be pulled out of the sewer holes there. A great number of Jews, who could not be counted, were exterminated by blowing up sewers and dug-outs.

“Of the total of 56,065 Jews caught, about 7,000 were exterminated within the former ghetto in the course of the large-scale action, and 6,929 by transporting them to T II (an obvious reference to Treblinka), which means 14,000 Jews exterminated altogether. Beyond the number of 56,065 Jews an estimated number of five to six thousand were killed by explosions or in fires.”

The loot from this action included about five million Reichsmarks in Polish currency, large sums of foreign currency, and great quantities of valuables such as rings, watches, and jewels. As we shall see later this property was transferred to the WVHA.

On 2 June 1943 Krueger transmitted to Himmler, Stroop's final report on the liquidation of the Warsaw ghetto. On 11 June 1943 Himmler directed Pohl to establish a concentration camp in Warsaw, the prisoners of which were to be used in salvaging the debris and scrap iron. In addition, the ghetto was to be absolutely leveled, with a view to creating a large park.

By 23 July 1943, Pohl was able to report the establishment of a concentration camp at Warsaw. The actual demolition of the ghetto was carried out by Amtsgruppe C and several reports on this matter will be submitted to the Tribunal. These reports in-

dicating the employment of over two thousand concentration camp prisoners and reflect the use of large amounts of machinery and funds. On 29 July 1944 Kammler, chief of Amtsgruppe C, sent a telegram to Rudolf Brandt,* Himmler's adjutant, stating that the razing of the Warsaw ghetto had been completed according to schedule, but that the subsequent work had not been carried out. In short, the only portion of the whole plan which was not carried out was the establishment of a park.

The second phase of Action Reinhardt which I have mentioned is the confiscation of personal property. This involved the murder and corpse desecration of countless Jews. Every watch, every gold fountain pen, every pair of shoes represented a dead man, woman, or child. It is literally impossible to comprehend the enormity of the crimes committed in Auschwitz, Treblinka, Majdanek, and the rest. To assist the Tribunal in that regard, we shall exhibit a motion picture which shows the warehouses of those death camps full of clothes, shoes, spectacles, and bales of human hair. The WVHA accounted for and controlled the disposition of those proceeds of mass murder.

On 26 September 1942, the defendant Frank issued basic instructions to the agents of the WVHA in Auschwitz and Lublin on what he termed the "utilization of property on the occasion of settlement and evacuation of Jews." He stated that the Jewish property, and I am quoting, "will in all orders of the future be called goods originating from thefts, receipt of stolen goods, and hoarded goods." Excerpts from this order read as follows:

"1. a. Cash-money in German Reich Bank notes have to be paid into the account: Economic and Administrative Main Office 158/1488 with the Reich Bank in Berlin-Schoeneberg.

b. Foreign exchange (coined or uncoined), rare metals, jewelry, precious and semi-precious stones, pearls, gold from teeth, and scrap gold have to be delivered to the SS Economic and Administrative Main Office. The latter is responsible for the immediate delivery to the German Reich Bank.

c. Watches and clocks of all kinds, alarm clocks, fountain pens, mechanical pencils, scissors, flashlights, wallets, and purses are to be repaired by the Economic and Administrative Main Office in repair shops; cleaned and evaluated; and have to be delivered quickly to front line troops.

"d. Men's underwear and men's clothing, including footwear, has to be sorted and valued. After covering the needs of the concentration camp inmates and, in exceptions for the troops, they are to be handed over to the Volksdeutsche Mittelstelle.

* Defendant in case of United States vs. Karl Brandt, et al., vols. I and II.

The proceeds go to the Reich in all cases.

* * * * *

"i. Valuable furs of all kinds, raw and cured, are to be delivered to the SS WVHA. Ordinary furs (lamb, hare, and rabbit skins) are to be reported to the SS WVHA, Amt B II, and are to be delivered to the clothing plant of the Waffen SS, Ravensbrueck near Fuerstenberg (Mecklenburg)."

The order concluded:

"It has to be strictly observed that the Jewish star is removed from all garments and outer garments which are to be delivered. Furthermore, items which are to be delivered have to be searched for hidden and sewed in values, this should be carried out with the greatest possible care."

On 28 December 1943, the defendant Pohl issued the second basic order on the "administration of Jewish property." He admonished all SS economic administrators to keep their accounts as low as possible and to transfer all amounts above monthly requirements to Amtsgruppe A of the WVHA, which would handle the final accounting with the Reich. The order further stated that: "Upon completion of the resettlement operation the vouchers will have to be presented for auditing to the SS Economic and Administrative Main Office, section A IV." The defendant Vogt was chief of that office.

What was the extent of this bloody loot received by the WVHA and what was done with it? Fortunately, the prosecution is in possession of rather complete reports in that regard. Prior to December 1943 the WVHA accounted for personal property in excess of 180,000,000 Reichsmarks of murdered and enslaved Jews in the Lublin area alone. This included foreign currency from 48 different countries, not the least of which was \$1,300,000 in United States banknotes and gold coin. Also carefully listed and evaluated were 262,711 articles of considerable value, among them jewelry, watches, and gold spectacle frames. Nearly 2,000 freight carloads of clothes, linens, and rags were disposed of on orders of the WVHA.

This material began flowing into the coffers of the WVHA at least as early as August 1942. The defendant Pohl made arrangements with Walther Funk, the president of the Reich Bank and a defendant before the International Military Tribunal, for the deposit of the currency, jewelry, dental gold, and other valuables. A revolving fund was established, which reached 10 to 12 million Reichsmarks, for use primarily by Amtsgruppe W in financing economic enterprises controlled by the WVHA. This was known as the "Reinhardt Fund". In June of 1943, outstanding debts of various industries of Amtsgruppe W in the amount of approxi-

mately 8 million Reichsmarks were satisfied out of the Reinhardt Fund. This noxious deal was known to and participated in by the defendants Pohl, Frank, Fanslau, Georg and Hans Loerner, Hohberg, Baier, Volk, Bobermin, and Mummenthey, among others.

The source of the blood-stained loot from the extermination camps was also known to others in the WVHA. The defendant Vogt went to Lublin and personally audited the accounts of Globocnik. The defendant Georg Loerner, in agreement with the Reich Ministry of Economics, allocated for disposition hundreds of carloads of clothing from Auschwitz and Lublin. His own factory in the Ravensbrueck concentration camp reprocessed confiscated furs and rags. The defendant Sommer was familiar with the repair of thousands of watches of exterminated Jews in the workshops of the Sachsenhausen concentration camps. The defendant Pook was chief of the dentists who supervised the extraction of gold teeth from corpses in all concentration camps under the jurisdiction of the WVHA.

The third part of Action Reinhardt was the employment of the working ability of those Jews not initially marked for execution together with the utilization of the confiscated industrial facilities. The WVHA was active in this phase of the program. In order to coordinate these economic enterprises, the Eastern Industries Limited Liability Company (Ostindustrie GmbH), commonly called "Osti," was formed in March 1943. Its purposes were stated to have been: (1) to utilize the working capacity of the Jews by erecting industrial plants in connection with Jewish labor camps; (2) to take over commercial enterprises which had been maintained by the Higher SS and Police Leaders in the Government General; (3) to confiscate all Jewish machinery and raw materials; and (4) to utilize all former Jewish machines, tools, and merchandise which had been transferred to non-Jewish ownership.

The sole partners of Osti were the defendants Pohl and Georg Loerner. They also served on the board of directors with the notorious Wilhelm Krueger. The business managers were Globocnik and a Dr. Max Horn, an SS economic administrator appointed to Krueger's staff at Krakow by Pohl. Part of the capital for Osti was furnished by the defendant Frank out of the Reinhardt fund.

One of the more immediate reasons for the organization of Osti was to establish iron foundries in the vicinity of Lublin. The WVHA expected to derive the machinery and other equipment for this enterprise from the Warsaw action. Thus on 26 February 1943, Dr. Horn wrote to the defendant Hohberg:

"The organization of the Osti cannot be effected at the orig-

inally intended pace. The resettlement of the Jewish enterprises will probably last until June of this year, so that Osti will only be able to start properly by July of this year. Besides the utilization of the movable Jewish property in Warsaw must be started, a matter which I have not been able to attend to so far. I will start to take up this problem next week."

The unexpected resistance put up by the Jews in the Warsaw ghetto, which has already been described, largely frustrated the plans for an iron industry in Lublin since substantial quantities of machinery were destroyed.

There were some 18 manufacturing establishments controlled by Osti, employing altogether about 52,000 slave laborers. These plants included a glass works, a textile mill, a peat cutting plant, an iron foundry, a brush manufacturing plant, a stone quarry, and finally, a pharmaceutical laboratory.

In November 1943, the remaining Jews in the Lublin area were exterminated. This deprived Osti of its principal source of labor and, except for the glassworks which was operated by Polish slave labor, it was liquidated and the assets taken over by the German Equipment Works under the management of Amt W IV of the WVHA. The defendants Pohl, Georg Loerner, Baier, and Volk made an effort in January 1944 to secure the Lodz ghetto with its industrial equipment and 80,000 Jews for Osti, but the Reich Leader held that the ghetto should be left under the jurisdiction of the Gauleiter after the Jews had been reduced to a minimum by action of a "Sonderkommando".

This then, was Action Reinhardt—a coldly premeditated program of mass murder and gigantic theft visited upon a people whose only crime was that of failure to be born an Aryan. In scope and brutality the crime is without parallel.

* * * * *

CONCLUSION

The prosecution has charged in the first three counts of the indictment that all of the defendants are responsible for the crimes alleged therein. This charge is based not only on the theory of conspiracy or participation in a common plan, but also on well-recognized principles of criminal liability. One need not be the trigger man to be guilty of murder. The criteria of criminality are clearly stated in Control Council Law No. 10, Article II, section 2. Any person is deemed to have committed a crime, if he was (a) a principal or (b) was connected with plans or enterprises involving its commission or (c) was a member of any organization or group connected with the commission of any such crime.

And so in the case of the general and systematic commission of crimes in concentration camps all of the defendants are guilty. All of the defendants had substantial connections with the concentration camps, the very existence and operation of which necessarily involved murder, atrocities, torture, enslavement, and other inhumane acts. But, we shall no doubt have to listen to long and tedious lectures by each of the defendants to the effect that Amtsgruppe A, or B, or C, or W had nothing to do with the conditions in concentration camps—that such conditions were the responsibility of Amtsgruppe D, the Inspectorate of Concentration Camps. And when we come to the two defendants unfortunate enough to have worked in Amtsgruppe D, that is Sommer and Pook, they will tell us that they did everything in their power to improve conditions, that it was the dead Gluecks and Lolling who were responsible.* * *

No, the responsibility for the crimes committed in concentration camps can no more be limited to Amtsgruppe D or to dead men than to the sadistic camp guards who found it amusing to subject their helpless victims to degrading tortures. The concentration camps were the very life blood of the whole of the WVHA. The Amtsgruppen were all interrelated in their purposes and activities. Each depended on the other to a greater or lesser degree. The administrators and accountants of Amtsgruppe A cannot escape the charge of murder when they controlled the disposition of valuables of inmates killed by the millions in the camps of Auschwitz, Lublin, and Mauthausen; nor can the supply officers of Amtsgruppe B who ultimately controlled the food, clothing, and billeting for concentration camps and who were the recipients of train loads of clothing of exterminated Jews; nor can the construction engineers of Amtsgruppe C who used inmates to construct crematoriums, gas chambers, and underground factories; nor can the "business men" of Amtsgruppe W who worked inmates to death by the thousands in the granite quarries of Mauthausen and the brick factories in Poland and who used the labor of Jews until the moment they were driven away to gas chambers.

* * * * *

The vastness of the crimes committed and the nature of the organization involved forcefully poses the question: Why was the SS permitted to become a state within a state? It is our deep obligation to the German people and to the peoples of the world not to avoid or to evade that question. For the sake of these nameless millions who perished under the heel of the SS—Germans and non-Germans—let us not speak too softly or too late of the responsibility of every member of the community for its

political weal! Let us not too soon lose sight of a collective civic responsibility to prevent the growth of such malignant organizations. Before the memory of these crimes die away let us speak of the duty of all patriotic and responsible men, in all walks of life, to protect the nations against such loathsome doctrines as these defendants preached and practiced. Here let the consequences be indelibly recorded of an organization based upon the execrable theories of racism. If there are those who doubt, let them come here and examine the documents which Himmler's vial of cyanide could not destroy, showing the world-wide carnage wrought by that organization; and all peoples may learn that a nation may not be built upon persecution; that industry, no more than medicine or law may not be built upon death, destruction, and desecration; and that production may not be based upon pogroms, nor profits upon pillage. Today's misery exists the world over because these lessons were not sooner learned.

B. Extract from Opening Statement for Defendant Pohl *

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DR. SEIDL: In the indictment which was served on him, 13 January 1947, the defendant Oswald Pohl is charged on all four counts of the indictment.

In count one of the indictment he is charged with having participated in a common plan with the intent of perpetrating war crimes and crimes against humanity. In counts two and three of the indictment he is charged with personal responsibility in the perpetration of war crimes and crimes against humanity, while in count four of the indictment he is charged with having been a member of an organization which was found to be felonious by the International Military Tribunal.

COUNT ONE—THE COMMON PLAN OR THE CONSPIRACY

In count one of the indictment the defendant Oswald Pohl is charged between January 1933 and April 1945, together with the other defendants and several other persons following a common plan, with having participated in an illegal manner and with malice aforethought, in an agreement to perpetrate war crimes and crimes against humanity, as they are defined in the Control Council Law No. 10, Article II.

The indictment contains no statements which are based on facts and which reveal in detail the existence of such a scheme

* Complete opening statement is recorded in mimeographed transcript, 14 May 1947, pp. 1099-1121.

with regard to its period of initiation and its purpose. The indictment is restricted essentially to legal arguments in general the center of which is the Economic and Administrative Main Office under the defendant Oswald Pohl.

The indictment itself contains no reference to the legal provisions on which, in count one of the indictment, the maintained common plan has its legal basis. Therefore, the question as to whether the Control Council Law No. 10 can provide legal reasoning for this count of the indictment must be examined. In consideration of the fact that in Control Council Law No. 10 of 20 December 1945, paragraph 1, the London Agreement, dated 8 August 1945, relating to the prosecution and punishment of major war criminals of the European Axis powers, has been incorporated as an inseparable part of this law, the statute for the International Military Tribunal must also be referred to when examining this question, since this statute on the other hand, represents an essential part of the London Agreement of 8 August 1945.

Just as in the present trial, the prosecutors of the four signatory powers of the London Agreement, in the trial against Hermann Goering and others, have regarded the "common plan or the conspiracy" as an independent count of the indictment and as a major count in the center of the indictment. The indictment described the purpose of this common plan as not only a preparation for a war of aggression but also the planning of war crimes against humanity. The prosecution is opposed to this, and the International Military Tribunal also has decided in its verdict of 20 September 1946, that the statute does not warrant an extension of the common plan of committing war crimes and crimes against humanity. The International Military Tribunal, in its verdict has stated the following:

"Count one of the indictment covers not only the conspiracy for the purpose of conducting aggressive warfare, but also the conspiracy for committing war crimes and crimes against humanity. Apart from the conspiracy of conducting aggressive warfare, the statute does not describe any kind of conspiracy as an especial crime. Article 6 of the statute provides for:

"Leaders, organizers, instigators, and accomplices who have taken part in the execution of the common plan or common conspiracy for perpetrating one of the above crimes are responsible for all deeds which have been perpetrated by any persons in carrying out such a scheme.

"According to the opinion of the Court, these words do not add a particular new crime to the crimes already enumerated. The words serve to establish the responsibility of those persons

who are associated with a common plan. The Tribunal will therefore disregard the charges contained in count one of the indictment, that the defendant took part in a conspiracy for perpetrating war crimes and crimes against humanity, and consider solely the common plan to prepare, start, and carry out wars of aggression.”

Thus there can be no doubt that, according to the Charter of the International Military Tribunal at any rate, this does not constitute a common conspiracy for the commission of war crimes or crimes against humanity.

Moreover, the question should be examined whether the Control Council Law No. 10 of 20 December 1945 provides sufficient legal basis for count one of the indictment. This question must be answered in the negative for the following reasons.

The Charter of the International Military Tribunal of 8 August 1945 has become, by Article I of the Control Council Law, an integral part of this law. As a law of the four signatory powers of the London Agreement of 8 August 1945 it is without doubt a legal source of special importance. For this reason, therefore, it must be considered improbable that a law of the Control Council could contradict the regulations of the Charter of the International Military Tribunal or the interpretation which the Charter had acquired through the International Military Tribunal. Moreover, it should be added here that every law should be considered as a complete unity in itself. Considering the regulation placed at the head of this Control Council law that the Charter of the International Military Tribunal was an essential and inseparable part of this law, it must be regarded as out of the question for this law to make statements which contradict the Charter.

We may, therefore, consider that the Control Council law does not present sufficient reasons for count one of the indictment from a legal point of view. And indeed this law mentions only in a single place a common plan or conspiracy, namely, in Article II, paragraph 1 (a) when defining the concept of crime against peace. On the other hand, the characteristics of a war crime or crime against humanity, as defined from the point of view of criminal law in Article II, paragraph 1 (b) and (c) contain no adequate further explanation of the concept in the sense of a common plan or conspiracy. Article II, paragraph 2 of the Control Council Law No. 10, which describes in detail the characteristic symptoms for determining participation, also gives no indication that the common plan for the commission of a war crime or a crime against humanity constitutes an independent criminal offense. This refers especially to paragraph 2 (d). Here anyone connected with the planning or perpetration of any of the crimes

mentioned under paragraph 1 is threatened with punishment. From the working of the law and especially of the English text it is clear that this cannot mean the legal institution of the "common plan or conspiracy" in the technical sense. The wording of the Control Council Law No. 10 and its connection with the Charter of the International Military Tribunal, as well as with the interpretation which the Charter has acquired through the verdict of this Military Tribunal, allow us to conclude with certainty that this law at any rate cannot present a legal basis for count one of the indictment.

To supplement Control Council Law No. 10 of 20 December 1945, the U.S. Military Government of Germany issued Ordinance No. 7 which is concerned with the constitution and authority of certain military courts. As can be seen from the heading of this decree itself, it is not intended to introduce new legal standards but only to regulate the constitution of these military courts and to make public directions for procedure. Nevertheless, Article I contains the statement that these military courts are to be authorized to judge and punish persons indicted for an act punishable under Article II of Control Council Law No. 10 or of conspiring to commit such a crime. Therefore, the question arises whether Article I of Ordinance No. 7 of the Military Government of Germany can be regarded as a sufficient legal basis for count one of the indictment, since Control Council Law No. 10 excludes this possibility. This question, too, is to be answered in the negative for the following reasons: The composition and purport of Ordinance No. 7 show clearly that it is only designed to supplement Control Council Law No. 10 as far as questions of legal procedure and organization are concerned. Such a possibility has been envisaged in Control Council Law No. 10 itself. Article III, paragraph 2, of this statute states that provisions of the Control Council Law shall not encroach upon or limit the authority of any court of law already set up or which may in future be set up by the zone commander within their zone. If one proceeds from the assumption and, indeed, any other interpretation could be defended only with difficulty, that it is one of the tasks of the Control Council to issue uniform legal regulations and to guarantee the uniformity of the law for the whole of the territory of the German Reich occupied by the signatory persons of the Potsdam Agreement of 2 August 1945, then one must exclude completely the possibility that individual zone commanders could have the right to change and enlarge penal regulations issued by the Control Council for Germany and obligatory for the whole of the occupied territory. Article III, paragraph 2 of Control Council Law No. 10 can only be interpreted to mean that the

zone commanders shall have the right to issue regulations for punishment and for procedure in those cases in which no exhaustive provisions have as yet been made by the Control Council for Germany. From the wording of the Control Council Law it is clear that only the common plan to wage an aggressive war shall be punishable. Had it been the intention of the Control Council to make equally punishable a general intention directed towards the committing of war crimes or of crimes against humanity, then it would have said so and would have admitted a provision similar to that contained in Article II, paragraph 1 (a)-(c), where the legal definitions of war crimes against humanity are given. *Argumentum e contrario* it must be concluded that this, precisely, was not the intention of the Control Council.

If one admitted the right of the zone commanders to change on their own authority the penal laws of the Control Council, this would constitute a violation of one of the fundamental principles, obviously decisive factors in the establishment of the Control Council, namely the maintenance of the uniformity of the law throughout the whole of the occupied territory. It is one of the principles of any legal system that particular and subsidiary penal law cannot contradict general penal provisions. With regard to this contradiction, the law issued by the Control Council for Germany must take precedence, and only this law can be recognized as a legal basis for the passing of judgment, inasmuch as one is convinced that a law published after the act has been committed can be quoted as justification for punishment.

And thus, we arrive at another question which arises as much from Control Council Law No. 10 as from Ordinance No. 7 of the Military Government of Germany in as far as these contain regulations governing penalties. It is one of the principles of any legal system and part of our conception of justice that penal law cannot be retrospective. An act can only be judged according to laws which were valid at the time when the act was committed. Control Council Law No. 10 as well as Ordinance No. 7 of the Military Government of Germany were issued long after the act. Both these laws therefore violate the principle that the theoretical and the practical validity of the law must be identical. This principle goes further than the principle "*nulla poena sine lege*" insofar as it excludes the application of a theoretical penal law even, when in practice it does not contradict the law valid at the time when the act was committed, but the law which contains the threat of punishment and which is intended to stand as the basis for the judgment, was issued only after the act was committed.

In point of fact, however, the provisions of Control Council Law No. 10 are also in a material respect contradictory to the

law applicable to the defendants at the time of the deed. The same applies to the definitions of crimes against peace, war crimes and crimes against humanity contained in Article II, paragraph 1, as well as the forms of participation defined in detail under paragraph 2. Thus Law No. 10 of the Control Council violates the principle: *nullum crimen sine lege, nulla poena sine lege*, which is contained in all laws of the civilized states, and which means that deed can only be punished if the liability to punishment and the punishment itself were legally determined before the offense was committed. There is no need to enter into the history of this sentence. It is sufficient to point out that it is contained in Article 39 of the Magna Charta of King John dated 1215. From there the sentence passed into the North American [United States] Bill of Rights, and in Europe the wording in Article 8 of the French Declaration *des Droits de l'Homme et du Citoyen*, dated 26 August 1789, is still regarded as a prototype. Today the sentence *nulla poena sine lege* seems to be an internationally acknowledged component of our conception of law. In view of this it can be assumed that the sentence applies not only to individual offenses but also to the general regulations of penal law which concerns the personal responsibility of the offender, the limits of the punishable acts, and the participation in them. There can be no doubt that not only Article II, paragraph 1 of Control Council Law No. 10 contains criminal regulations contradictory to the criminal regulations which were binding for the defendant before 8 May 1945, but that also the limits of the punishable act and the responsibility for the actions of another are considerably more comprehensive in Article II, paragraph 2 of the Control Council Law than in the corresponding regulations of the German penal code. In our case, the sentence *nulla poena sine lege* means nothing more than the assumption that the defendants are to be judged fundamentally and in the details of the execution according to German penal law. This was in force at the decisive time, and they were bound by it. The degree of their responsibility was determined by it, and today too, this must be referred back to that time. The Tribunal will have to consider this question in its judgment unless it wishes to run the risk of violating a general principle of justice whose validity was clearly recognized in the verdict of the International Military Tribunal.

It will be the task of the defense to demonstrate in detail the principles according to which the defendant directed the Economic and Administrative Main Office and whether these principles and their actual application can be used at all to form the

framework for a common plan as charged against all defendants in the indictment.

With regard to the fact that according to the indictment these defendants were not the only participants in the common plan, but that various other persons were also involved it will also be necessary within the framework of the defense to examine the position of the Economic and Administrative Main Office within the Reichsfuehrung [Reich Leadership] SS, and its relation to other Main Offices of the SS—but even now it seems to be necessary to examine the law concerning the common plan (count one of the indictment) and its applicability to this case.

COUNTS TWO AND THREE—WAR CRIMES AND CRIMES AGAINST HUMANITY

1. The Economic and Administrative Main Office—this office which was directed by the defendant Oswald Pohl, was one of the twelve Main Offices of the Reich Leadership SS, which was directly subordinated to the Reich Leader SS Himmler. As the title of this office shows its tasks were mainly the settlement of administrative affairs. Until 3 March 1942, the day on which the formerly independent Inspectorate of the Concentration Camps was incorporated into the Economic and Administrative Main Office, as department D. The Economic and Administrative Main Office had no more to do with the administration of the concentration camps than with the administration of any other institution of the SS. The Inspector of the Concentration Camps was immediately subordinated to Reich Leader SS Himmler, and for a certain time to the Fuehrungshauptamt [operational headquarters] without influencing the administration of these camps very much. Obviously this subordination was only a formal one and it will be the task of the defense to present the reasons why the Inspectorate of the Concentration Camps was for many years directly subordinated to Reich Leader SS Himmler, and also why subordination to the chief of the Fuehrungshauptamt was only a formal one. These reasons, which will have to be examined individually also prevented the Inspectorate of the Concentration Camps being attached years before the outbreak of war to the office to which according to their nature they should have belonged, namely the Secret State Police Office or the Reich Security Main Office which was formed in 1939.

2. Up to 3 March 1942 the work of the economic main office was to carry out duties, which had to be performed within the framework of the administration of the Waffen SS as a part of the Wehrmacht and as they were performed in the army for

example, by the army administrative office. To that belonged department A, the economic system of the general SS, the accounts and pay section, personnel and legal section. Department B dealt with matters concerning the food section, the clothing section, the accommodation section, the transport system, and similar things. Department C dealt with building, while the department W directed and controlled the economic section. Here too, it may be added that for example, the undertakings—which were under the direction and supervision of the high command of the army—were considerably larger and more extensive than those which were under the direction of department W. It will be the task of the defense to present in detail the basic principles, which were observed with regard to the direction of the various departments and offices of the Economic and Administrative Main Office, where particular attention will have to be given to certain special tasks as these were carried out, for example, by the chief of department C, SS Obergruppenfuehrer Dr. Kammler within the limits of his special staff. This special staff had, particularly during the last years of the war, to carry out tasks which far exceeded the general sphere of authority of the Economic and Administrative Main Office, and which were carried out partly under the immediate direction and orders of Hitler, Speer, Himmler, and other offices.

3. The main point of the presentation of the evidence by the defense will be the examination of the question: What results had the incorporation of the Inspectorate of Concentration Camps in the Economic and Administrative Main Office as department D on the Economic and Administrative Main Office itself, as well as on its chief, the defendant Oswald Pohl? The starting point of this examination will be the examination of those reasons which really led to the Inspectorate of the Concentration Camps being taken away from the Fuehrungshauptamt, into which it was incorporated for purposes of organization until 3 March 1942, and being subordinated to the defendant Oswald Pohl as chief of the Economic and Administrative Main Office. This will prove that this subordination of the Inspector of Concentration Camps to the defendant Oswald Pohl and the incorporation of the Inspectorate into the Economic and Administrative Main Office was caused exclusively by the unsatisfactory state of the German labor market during that time. It is no accident that at the same time, namely 12 March 1942, Gauleiter Sauckel was promoted Plenipotentiary General for Labor Allocation [Arbeitseinsatz] and that the Plenipotentiary for the Four Year Plan, Goering, transferred to him the authority which was his due in his capacity within the framework of the labor allocation. The incorporation,

for purposes of organization, of the Inspectorate of Concentration Camps in the Economic and Administrative Main Office was forced only by the economic necessity of incorporating the labor inside the concentration camps into the general mobilization and of employing them usefully and of excluding every uneconomical utilization of labor as was in many instances the case in the camps up to this time. It will also be the task when presenting the evidence, to set forth in detail those measures which the defendant Oswald Pohl adopted in the performance of his task and also which directives had been given him. But already at this time the attention should be drawn to a fact which to a large part follows from the very evidence offered by the prosecution itself; namely that the tasks of the defendant Oswald Pohl were restricted and that general administrative and executive matters connected with these camps were not within his competence but were still handled directly by the agencies which had been in charge of them before. This applies in particular to the position of the Inspectorate of the Concentration Camps itself. It was by no means so that after 3 March 1942 when the Inspectorate of the Concentration Camps had been incorporated into the WVHA, it had the same standing within this main office as the other subdivisions which for many years had been charged with certain specialized functions and therefore had that standing within the larger body as a matter of course. The fact has to be stressed even now that the administrative incorporation of the Inspectorate of the Concentration Camps into the WVHA was only intended for the duration of the war and that this incorporation did by no means change the independent position of the inspector of the concentration camps, with the exception of labor allocation matters. Also, the Inspectorate of the Concentration Camps did not move its offices to the office building of the WVHA in Berlin, even after 3 March 1942, but they remained at Oranienburg. It is a fact which we shall prove that the Inspectorate of the Concentration Camps, even after its incorporation into the WVHA did not lose any part of its independence and within the WVHA was always looked upon as a foreign body.

Even the very evidence submitted by the prosecution shows clearly that nearly all matters not immediately connected with labor allocation were handled by the offices of the Inspectorate of Concentration Camps without the chief of the WVHA or the other subdivisions or offices of the WVHA being concerned with them.

The defense will consider it as its task to prove in detail the manner and the extent of the operation which developed between

the defendant Oswald Pohl and the inspector of the concentration camps with regard to labor allocation.

The evidence of the prosecution shows, moreover, that the administrative incorporation of the Inspectorate into the WVHA, did not effect any changes in the competences still appertaining to the Secret State Police [Gestapo] and the other offices of the Reich Security Main Office. This applies in particular to the commitment to, and the release from, concentration camps, both of which were exclusively a matter of the Reich Security Main Office and upon which the WVHA had no influence at all.

As part of the evidence the prosecution showed several films which were to show the general conditions in these camps after the collapse of Germany in May 1945. The fact, however, that the conditions shown in these films cannot be regarded as typical for the general conditions in these camps before and during the war does not need special emphasis. The heavy air raids of the Allied air forces against the German home front and especially the lines of communication, resulted in a collapse of the communication system and the economic life as such, which heavily aggravated conditions of life in Germany even outside the camps. The conditions in the camps were bound to become more intolerable as more and more concentration camps were evacuated upon the approach of the Allied armies, that more and more concentration camps were evacuated which had the result that in the few remaining camps the prisoners were overcrowded to such an extent that it became impossible to carry out sufficient feeding and even limited hygienic conditions for any length of time.

The defendant Oswald Pohl and the office under him cannot be held responsible for this decline in the living conditions in the camps. Through an order of the Reich Leader SS, the concentration camps came under the jurisdiction of the responsible Higher SS and Police Leader in whose district the camp was located, in the so-called "A-Case"—that is when threatened by the enemy. He alone had to decide whether the inmates of the camp were to be evacuated or whether the camp with all prisoners was to be turned over to the advancing Allied troops.

4. The inclusion of the labor strength of the prisoners in the armament economy was the immediate cause and purpose of the organizational coordination of the Inspectorate of the Concentration Camps into the WVHA. The defendant Oswald Pohl does not deny having done everything possible to utilize the labor strength of the prisoners in a manner beneficial to the conduct of the war, and he does not deny that in doing so he made demands, with regard to the hours worked which made considerable demands on the capacity for work. The following has, however,

already been pointed out by the evidence of the defense:

The collapse of the offensive of the German armies before the gates of Moscow in the winter 1941-1942 and the entry of the United States into the war had the result that Germany had to make plans for a long war. If, up to spring 1942 any doubts should have existed as to the length of the war and the dangers to the living conditions of the German people caused through this war, these doubts would have to be removed definitely through the political and military developments which have arisen. These developments placed before the Government of the Reich the necessity of drawing all possible labor strength from the German people. Naturally, at a time when all German workers were in the factories daily for 12 hours or more and in which women with four or five children were given home work to do for the armament industry, the prisoners from the concentration camps would be drawn on for carrying out essential war work.

On the other hand, the evidence will show that the defendant Oswald Pohl did everything which could be undertaken by the ministry by issuing appropriate regulations and by improving food and general conditions in the camps to maintain the labor strength. When, despite this the working conditions in the camps and workshops steadily declined, it was due largely to circumstances which were outside the jurisdiction of the defendant Oswald Pohl and which will be examined in detail in the presentation of evidence by the defense.

In these examinations it will also be necessary to examine the conditions and circumstances under which the armament plants of private economy employed the prisoners of the concentration camps and which conditions had to be fulfilled before department D and the commandants of the camps could hand over manpower to these concerns.

It will then be the task of the legal summing up, after presentation of all the evidence, to investigate the real reasons excluding the illegality of the act and the guilt of the defendant which can be offered in defense of the defendant's conduct regarding the question of the allocation of labor in those cases as well in which foreign labor and prisoners of war were assigned, and their final justification in those particular circumstances which were caused by the war and wartime conditions.

5. An extensive part of the prosecution evidence material refers to department W and the economic undertakings of the WVHA. It is difficult to tell from many of the documents put forward by the prosecution as to how far they should be considered as material evidence in the judgment of the conduct of these defendants and with regard to the charges brought against them. It seems

all the more necessary that the defense should set forth in detail the reasons which the Reich leadership of the SS set forth, as opposed to the general economic principles announced by the Staatsfuehrung [State leadership], which amount to the same thing as the support of private enterprise, even in founding economic concerns and in entering into competition with private economy.

In this connection there will also be an opportunity of investigating the property and other law conditions with regard to these concerns, and of examining the question of who owned the business shares of the Deutsche Wirtschaftsbetriebe (German economic plants) GmbH and who financed this holding company and the other undertakings which it controlled.

At this point it should be mentioned that of the total investments in these concerns, both in money and in kind, 38 millions came from Reich sources and only 7 millions were provided by the National Socialist Party. The defendant Oswald Pohl was not the actual owner of the DWB shares, but was only the trustee.

6. The defendant Oswald Pohl is accused in the indictment of being particularly responsible for carrying out medical experiments in the concentration camps. The evidence in this case and in the proceedings before Military Tribunal No. I has shown that in actual fact experiments were made on prisoners in the concentration camps in the interest of the German Wehrmacht. The evidence has also shown, however, that the defendant Oswald Pohl did not participate directly in carrying out these experiments. It will be the task of the defense to use the evidence to investigate thoroughly of which experiments the defendant Pohl was aware, whether and to what extent he supported the experiments and if, by reason of his position it would have been possible for him to prevent the experiments from being carried out.

7. The defendant Oswald Pohl is also accused in the indictment of responsibility for and participation in the so-called final solution of the Jewish question. The evidence in Case No. 1 against Hermann Goering and others before the International Military Tribunal showed that the order for the extermination of the Jews was given as early as the summer of 1941, that is to say, at a time when the WVHA had no connection, administratively or otherwise, with the camps where these measures were carried out. But the evidence before the International Military Tribunal has also shown that there were special agencies and persons who were charged with the execution of this order, as for instance the office IV B of the Reich Security Main Office under SS Obersturmbannfuehrer Eichmann and SS Gruppenfuehrer Globocnik, who had no connection, administratively or

otherwise, with the WVHA, and all of whom received their orders immediately from Reich Leader SS Himmler, all necessary measures having been taken to guarantee the greatest possible secrecy. In this connection I refer to the statements of the witnesses Wislizeny, Hoess, and Morgen before the International Military Tribunal. It may be pointed out also, even now that the extermination camps Treblinka, Belsec, Majdanek, and others did not belong into the domain of the Inspectorate of the Concentration Camps, and therefore even after 3 March 1942 were not subordinated to the defendant Oswald Pohl, not even nominally or administratively. I also should like to add that the WVHA, as directed by the defendant Pohl, was only an administrative office which had no executive organs whatsoever, and that an immediate participation in a number of acts which constitute the object of the indictment, would appear impossible if it were for that reason only.

8. Extensive evidence was submitted by the prosecution in connection with the Action Reinhardt. Several agencies were in charge of the execution of this action, among them the Higher SS and Police Leader East and the SS and Police Leader Globocnik.

The WVHA as such had at first nothing to do with this matter. It was brought into it only when the action was approaching its end, and certain enterprises near Lublin had to be taken over by the WVHA and, beside the audit of the received assets, negotiations with several other Supreme Reich Offices as for instance the Reich Finance Ministry and the Reich Bank, had to be conducted for the purpose of assuming title to these assets.

It will be the object of the evidence of the defense to establish in detail the participation of the defendant Oswald Pohl in the wind up of this action and to examine the legal aspects resulting in this connection.

9. The prosecution also submitted extensive evidence in order to prove a participation of the defendant Oswald Pohl in the measures which led to the obliteration of the Warsaw ghetto. The evidence of the prosecution proves that the establishment of the Warsaw ghetto and its transformation into a concentration camp was in the first place the task of the Higher SS and Police Leader East. The documents submitted by the prosecution show, moreover, that the obliteration of the Warsaw ghetto was carried out by the director of the Reich Leader SS Himmler under the military supervision of the Higher SS and Police Leader East by the SS and Police Leader Warsaw, Juergen Stroop, who also submitted an extensive report on it. In this connection it should also be mentioned that in the proceedings before the International

Military Tribunal the prosecution made an effort to hold the former Governor General Hans Frank directly responsible for the obliteration of the Warsaw ghetto, although the correspondence submitted now in this trial indisputably shows that neither the administration of the Government General nor the Governor General himself had anything to do with it, but that the obliteration of the Warsaw ghetto was an action which was carried out exclusively by the Security Police and the SD under the military direction of the competent local SS and police leaders, and with which neither the administration of the Government General nor that of the WVHA had anything to do.

The defense will consider it its task to ascertain by questioning the defendant Oswald Pohl himself whether the Reich Leader SS informed him in advance of the existing intentions and plans and whether his position within the organization of the SS would have given him the possibility or power to prevent the obliteration.

10. The defendant Oswald Pohl moreover is accused of being particularly responsible for the execution of the so-called euthanasia program in the concentration camps. This program, which was executed in the concentration camps under designation "14 f 13", was initiated by a decree of Hitler of 1 September 1939. In this decree Reich Leader [Reichsleiter] Bouhler and the later Reich Commissioner for Public Health, Dr. Karl Brandt, were ordered "under their responsibility, to extend the authority of physicians to be appointed individually, in a manner that patients who, to the best of human knowledge, are incurable, can be granted the euthanasia, the prerequisite being a most discerning evaluation of their condition." The evidence in the proceedings before Military Tribunal I has shown that this program was discontinued again in autumn 1941, due to numerous letters of protest, above all from dignitaries of the churches.

The rest of evidence submitted by the defense in this trial deals with the period before 3 March 1942, that is, a period in which the concentration camps were not yet included as Amtsguppe D in the WVHA with a time limit—for the duration of the war—and with a view to the fulfillment of certain tasks in connection with the labor supply and the conduct of the war. It will be the task of the defense to ascertain in detail whether and what the defendant Oswald Pohl learned about the measures connected with this count of the indictment.

COUNT FOUR—MEMBERSHIP IN CRIMINAL ORGANIZATIONS

In this count the defendant Oswald Pohl is accused of membership in the SS, which has been declared a criminal organiza-

tion by verdict of the International Military Tribunal. In the presentation of evidence on this count, opportunity will be given to observe the career of the defendant, and to show the reasons which induced him as a paymaster official in the navy, to become a member of the National Socialist Party, and what circumstances led him to leave the navy in 1934 and to take over a high office for the purpose of building up the SS administration.

Your Honor, I would like to add at this time that the main point of defense in the case of Oswald Pohl is based on the examination of the defendant Oswald Pohl himself at the witness stand. That, furthermore, I would like to start presentation of evidence in the examination of the defendant Oswald Pohl, and I would also like to call a few other witnesses with permission of this Tribunal after his examination.

C. Opening Statement for Defendant Georg Loerner * LEGAL ASPECTS

DR. HAENSEL: I consider it my duty to show you in a few brief words the trend to be adhered to in the defense of Georg Loerner.

The greatest essayist, Lord Macaulay was of the opinion that the history of the world was a trial, in which the past is brought to trial before the present. The Nuernberg trials, beginning with the war crimes trial before the International Military Tribunal, are not intended to be trials in this sense, but real criminal proceedings, because they sentence people to punishment. The proceedings and the manner in which the law is applied, should therefore be no different from that of a normal case, where the particular deed of one or several people is to be judged by the laws recognized as legally binding for all.

"Some 20 broken men are sitting in the dock", said Robert H. Jackson, Chief Prosecutor for the United States in his opening speech on 21 November 1945. "Taken individually, their fate is of little account. But as the defendants represent the evil forces which for a long time to come will linger in the world, even when they have become dust, this trial is therefore of much importance."

As in the case of the IMT trial, the following results from the reasons and the evidence submitted by the prosecution: More has been submitted than is perhaps necessary for a direct basis for a verdict of guilt for the individual defendants, because the "evil forces" are behind the defendants, and their ominous actions must be revealed and rendered harmless together with the defendants.

* Opening statement is recorded in mimeographed transcript, 14 May 1947, pp. 1178-1184.

In the IMT trial the prosecution accused Rosenberg, for instance, of breeding a false ideology in the people by his kind of philosophy, which had psychologically prepared them for aggressive war. Therefore the defense wanted to develop all this pseudo-philosophy and systematically to justify it as neo-romanticism, as a so-called modern sprout on the tree of knowledge. Lord Justice Lawrence rejected these attempts by declaring that Rosenberg was not brought before the court for his ideas, but because of his deeds, not because of his doctrine, but for its practical application.

Thus the judge averted the danger, which was to be found in the reasons for the indictment of the first trial, and which has again become almost more clearly discernible in this trial. This danger lies in the fact that a judgment of history is formed by the prosecution in this particular case versus Pohl and others, a judgment on events which have become historical, pronounced by means of criminal proceeding against individuals. But both trials are on quite a different level and should be kept apart, otherwise the criminal case becomes a showcase, one not in the sense of consciously defeating the ends of the law, but in the sense of a verdict which has jurisdiction over the body and soul of certain persons, but which aims at the impersonal factors, such as the "evil forces", quoted by Robert H. Jackson. The difference between this historical trial and criminal proceedings is the fact that those people thus acting are held responsible to history for the evil forces operating through them; whereas in criminal proceedings, circumstances permitting, such "evil forces" can lessen or even exclude the responsibility.

The prosecution endeavors to prove the enormous guilt of the defendants, by presenting for instance all the horror-evoking events, connected with the concentration camps. The task of the defense as opposed to this is summarized in a brief sentence: It must not attempt only to justify these horrible events as such, but merely to discuss to what extent the consciously responsible guilty behavior of the defendants contributed to these events.

The extent and the number of the victims is of decisive importance for the historical method of approach. On closer and more penetrating consideration the following apparently strange result ensues for the individual whose particular share in the guilt is to be determined here. The individual guilt does not increase in any mathematical progression with the number of victims mentioned in this trial. One murder suffices to have a person's life legally delivered to the executioner. But if one speaks of the murder of millions of people, forces are set in motion, and conceptions are aroused in us, which suddenly overshadow the indi-

vidual guilt, and remind us that evil forces and a destiny exist which surpass the power of the individual, and into which we are all forced.

In the opening speech on 8 April 1947, one of the prosecution cried (*German Tr. p. 55*) "It is literally impossible to comprehend the enormity of the crimes committed in Auschwitz, Treblinka, and Majdanek etc." Certainly this is correct, but the prosecutor failed to see that in doing so he had wandered from the prosecution's sphere of arguments to that of the defense. These events can no longer be understood, by any of us. But did the defendants understand them? Did the defendant whom I represent understand them or could he understand them? Could he have been so involved as to be made personally coresponsible?

Posterity working on a psychological basis will confirm with great interest that the prosecutor did not add any legal argument to the phrase just quoted by me, for one cannot add to it, but continued, "We will show a film in this respect in support of the Tribunal which shows the warehouses of these death camps filled with clothes, shoes, spectacles, and bales of human hair." The logic is simply disconnected. The ratio, the power of consideration fails, and we can only have recourse to this series of apocalyptical pictures which were burnt into our memory. I shall never forget the shorn human hair mentioned above, and the individual features of the victims, who in the suffering they have overcome, already attain what we imagine to be transcendental sublime greatness, completely raised above this valley of misery. But I was never far distant from the bridge which led from the hell of these events to that, may I say, bourgeois narrow mindedness of my client the defendant, who went to his work in the morning, to lunch at noon, and in the evening to his family, to wife and children; and who was absolutely incapable of having such a vision or the idea of such a vision.

I am, however, fortunate to be able to refer not only to the judgments of eminent former courts, but from the reasons for the verdict in the Milch Case (case No. 2) we know the principles upon which the High Tribunal, which will pass judgment in this case, based its decision in the Milch case and will, therefore, presumably do the same in the present case.

I take it from this judgment that for us it is a matter of proving that the defendant did not give orders to commit crimes against the laws of war, against humanity, that he did not originate these crimes; that he had no knowledge of such acts, knowledge by which he failed to prevent these acts having the power to do so. This is my aim.

If you want to make the acquaintance of the personality of

Georg Loerner then you will enter the simple, bourgeois, German atmosphere. Georg Loerner was nineteen years old when he fought in the First World War. He was severely injured, and it took a few years in order to learn how to walk again. He had a severe injury in the joint of his knees. His father was a locksmith. The business, however, turned into a small factory. That is the picture of his German life at that time, suddenly again slowed down through the time after the war, the inflation. Georg Loerner and his brother, Hans, were unable to carry on their business as a result of the inflation and the deflation, and they became bankrupt. Then they had certain bourgeois demands, and it was impossible for them to carry on in their business, and there was one thing left for them: the SS—the SS which was increasing its membership at that time, and which tried to obtain organizers in its ranks. It used people who appeared reliable and efficient, and it tried to get such people into its administrative organization in order to put them to a good use.

That is how Georg Loerner began, and he went along, and he grew along, and he rose along in the ever increasing Waffen SS, and finally an organizational genius like Pohl gave him a position and a future in the newly created WVHA as office head (Amtschef).

We shall have to explain that a man like Loerner did not know anything about the things which took place within the inflationally built up structure of the WVHA, this main office which had been newly organized, and that he only knew of the things that happened to a very small extent. The organization which had been established was organized in such a way that no one could see further than the particular task he was assigned to.

When we think quietly about all these things, we shall always think of the criminal concepts of Hitler's with horror. However, his organizational ability cannot be doubted. This art of organizing had its effects on the men who were working under him, of whom Pohl is one. We have to discuss a number of detailed points on the subject. My colleagues have already, for their individual clients, given a resume of the various 521 documents which have been submitted by the prosecution with reference to these defendants. Now, I, on my part also, want to make another statement. That is, I want to give an approximate idea of the monstrous amount of work which was being carried out within this giant complex of the WVHA. We would not only have to present the 21 volumes which we have here, but one thousand volumes in order to give an average of the working time there; we could see then, that the conditions which prevailed in the concentration camps could not come to the knowledge of an active office head

like Georg Loerner because he had so much work to do within his own field of work that he could not possibly see into these things which he was not directly concerned with.

Therefore, on the one hand, I shall try to describe to you just what the field of work of such a man included and then I shall have to show just how he tried to perform this work, and furthermore if he had any time left at all to look beyond his small field of responsibility. I shall not deal with the subjects which my colleagues have discussed in detail, above all with the Action Reinhardt, and with surprising lack of knowledge about these incidents. Above all I shall have one subject which perhaps will concern us most intensely, and that is the question of the extent of Georg Loerner's activity as Oswald Pohl's deputy. We believe we will be able to assume that he was only a formal deputy, and I believe that we shall be able to put before the Tribunal decisive material to that effect. In the verdict of the Tribunal in the Erhard Milch Case the old proverb was applied, "Mitgegangen, mitgefangen, mitgehangen" which means in English, "Once you're in it, you can't slip out of it with impunity". Georg Loerner was "in it". However, he did not go along with them.

In order to remain informed he was perhaps located very far in the background; however, from his position in the background he was not able to overlook the things which took place within the huge field of task of the WVHA. He was completely in the shadow of Oswald Pohl, and even if the shadow may somewhat darken the picture of this man, then it will be our duty to show in our evidence that we can put Georg Loerner into the proper light so that we can again recognize him as he is. The basis of this character is that of a simple, honest man, yes, one could even say that of a "petit bourgeois" whom fate threw into a time which he could not tackle.

D. Opening Statement for Defendant Pook *

I

DR. RATZ: 1. Defendant Dr. Hermann Pook is a dentist by profession. He was employed as dentist by the office D III of the WVHA (Economic and Administrative Main Office) and is charged in the indictment in his capacity as dentist. In view of the multitude of serious accusations and incriminating evidence compiled by the prosecution against the defendants, the indictment against defendant Hermann Pook appears to be a trifling matter. The indictment contains only one sentence which involves

* Opening statement is recorded in mimeographed transcript, 15 May 1947, pp. 1237-1252.

this defendant who is designated as chief dental surgeon of the WVHA, "Defendant Hermann Pook was entrusted with the dental care of concentration camp inmates" and in the opening statement of the prosecution too he is mentioned only in two sentences, "Defendant Pook was chief dental surgeon in office D III, all dental surgeons of concentration camps were subordinate to him. One of their tasks was the removal of gold teeth from deceased prisoners", and, "Defendant Pook was chief of the dentists who were supervising the extractions of gold teeth of corpses in all concentration camps by authority of the WVHA". Notwithstanding, I am far from adhering to an illusion with regard to the severity of the accusation against this defendant too. In clear and concise formulation the standpoint of the prosecuting authority is presumably the following: Defendant Hermann Pook is accused by reason of his responsible position in the field of dental surgery, to have contributed in a criminal manner to the "institution for violence, wholesale crime, and human vile-ness" as the prosecution describes the system of concentration camps.

2. In order to clarify the responsibility according to criminal law of defendant Hermann Pook it is necessary in the first instance to define his official position. This will show the following: The subordination for a dental surgeon in the Waffen SS as well as in the army was threefold—as far as the health service was concerned, he was subordinate to the physician of the unit; in all matters relating to discipline he was subordinate to the commander of the unit; and professionally he was subordinate to the leading dental surgeon of the superior association.

He could, therefore, receive orders from three different offices, and he was responsible to three different offices. If one of these offices gave an order to the dentist, this same office was, of course, responsible for the order given and not the other two offices.

The leading dental surgeon of the superior association on his part was likewise responsible to three different offices. He had a separate superior on each field: medical, disciplinary, and professional.

Dr. Hermann Pook was the leading dental surgeon of office D III.

What does the position of leading dental surgeon of the Waffen SS entail?

The main office of the entire dental service of the Waffen SS was office XIV (Dental Service) in the office group D of the Operational Main Office (Medical Service of the Waffen SS). This office XIV was competent and responsible for the dental service throughout the SS, not only within the sphere of the

Operational Main Office, but also for the action spheres of the other main offices of the SS, therefore also for the sphere of the WVHA. He had to attend to the installation and staffing of dental clinics as well as to the supply of the necessary materials and medical supplies, and besides he had to attend to the professional supervision of dentists and dentists' personnel.

Owing to the expansion of the dental service of the Waffen SS during the war it became necessary to create the position of leading dental surgeons. This was an intermediate instance which in the case of larger units, such as divisions supervised the dentists employed, in order to relieve the central instance, office XIV.

After the Inspectorate of the Concentration Camps was incorporated to the WVHA as Office Group D, it became necessary to create also in office D III (medical service of the concentration camps) the position of a leading dental surgeon as intermediate instance for the supervision of the camp dentists and as professional adviser to the superintending physician and chief of office Dr. Lolling. The defendant Hermann Pook held this position since the end of 1943, being professionally subordinate to office XIV (dental service of the Waffen SS) as every other leading dental surgeon, and receiving therefrom his orders and instructions concerning the dental professional field. It is not merely to dispute words if, contrary to the statement of the prosecution, it is emphasized that defendant Hermann Pook was not chief dental surgeon of the WVHA. There was no chief dental surgeon in the whole of the Waffen SS. A chief dental surgeon, i.e., a dentist with independent authority to direct subordinated dentists was not necessary and would have been in contradiction to the idea of a centralized organization of the dental service of the Waffen SS. Details will show that Hermann Pook, as leading dentist of Lolling, had no real authority to act independently, especially that he could not give any independent orders to camp dentists, nor did he ever do so.

It would be foolish on my part if I would expect to be able to exculpate by this evidence alone defendant Hermann Pook for ill-treatments or other atrocities which the camp dentists are alleged to have committed on prisoners, because after all it was Pook's duty as leading dental surgeon to exercise adequate professional supervision over the dentists. However, there is a marked difference whether responsibility arises from the position of chief, who acts independently and is generally responsible for his subordinates, or merely from the position of a supervising officer in the professional-technical field. Furthermore the accusation against Hermann Pook does obviously not stress particularly dental ill-treatment committed on living prisoners, but

concerns the removal of gold teeth from corpses of prisoners. In this connection it is of the greatest importance to realize that Pook was merely leading dentist and as such only had to supervise the camp dentists in a professional-technical manner. A double concept results therefrom: (a) He was not in a position to give orders for the removal of gold teeth from deceased prisoners (it is a fact that he actually never gave such an order); and (b) The order issued to the camp dentists which reached them either through medical service or official channels, went actually beyond the professional sphere of influence of the defendant.

3. Defendant Hermann Pook does not know to this day what kind of orders have been given for the removal of gold teeth from deceased prisoners, especially not which office issued them and when. He himself never has given such an order, nor has he supervised the removal. What he does know and already knew during his activity in office D III is, that by way of the camp administration such gold came from the camps and was passed on by administrative channels viz, not by office D III. He learned about it through the monthly reports of the camp dentists which he forwarded to office XIV (dental service). However, the quantities of gold mentioned therein were so small that it seems out of the question and never occurred to him that the gold did not come of such inmates only who died a natural death. In the further course of proceedings I will have to state that the removal of gold teeth of prisoners who died a natural death, does not constitute a criminal action at all. As early as in 1925 for instance there were lively debates in German dental publications with regard to the necessity and suitability of such a measure. Already then distinguished German dentists gave lively support to such a measure.

4. The evidence concerning the activity of the defendant in office D III will show that Pook in fact was just an intermediate office of the dental administration and nothing else. The following were his principal official duties: to review the monthly work and personnel reports, which the camp dentists submitted, and to pass them on to office XIV; to direct to office XIV the monthly requests for supplies and medicines, which were sent in by the chiefs of the dental clinics, to examine the applications for artificial teeth for prisoners submitted by the camp dentists and finally to forward the so-called gold-books to office XIV for examination. This will give us an insight at the same time of the principles governing dental treatment of prisoners; in the monthly requests for material and medical supplies there, no difference whatsoever was made between prisoners and members of the SS.

Every dental clinic had to keep a separate gold account on the gold for dental purposes received from office XIV for teeth repairs and used by the dentists, which was carefully examined by office XIV and later on by Pook himself. The result of this examination was recorded in the personal file of the dentists. An additional important task of Dr. Pook was the examination of bills of civilian dentists for the dental treatment of prisoners who worked in out stations and who, having no dental clinic in their camp, could not be treated by a camp dentist.

What purport would have had all these activities of Dr. Pook if the point of view would have been, that for the dentist the inmate in the concentration camp is merely a subject for cruel tormenting and lucrative gold production?

5. Dr. Pook was leading dental surgeon in the office D III with Dr. Lolling, the head of the medical service for concentration camps. I do not think that it can be seriously asserted that Dr. Pook, who was a dental surgeon and not a doctor, had been Lolling's deputy and therefore, or for any other reason, was responsible in the eyes of criminal law, for this man's actions. I shall, however, state and prove that Dr. Pook was not Lolling's deputy but that Lolling was represented by a doctor, if unable to attend or act himself, furthermore that Dr. Pook stood neither in any official nor personal relations to Lolling, which exceeded the essential official contact in dental matters, and that in the summer of 1944 Pook applied for a transfer from office D III on account of his strained relations with Lolling.

To complete the picture it will have to be proved what else Dr. Pook's work entailed. It will be seen that his activity in the office with Dr. Lolling only took up the lesser part of the day and that, for the rest as first dental surgeon of the Station Dental Post Oranienburg, he had to cope with a considerable dental practice every day, and that he devoted the rest of the day and the remainder of his strength to his own private practice in Berlin-Lichterfelde.

6. Over and above his responsibility for his own actions and for his department, the indictment attempts to hold the defendant responsible for collective actions perpetrated by other persons or with other persons. This is done on two assumptions: (a) because all defendants were essentially connected with concentration camps, whose existence and working in itself meant murders, atrocities, tortures, enslavement, and other inhuman acts (indictment), (b) because all defendants in agreement with each other intentionally and deliberately for a common purpose have committed war crimes and crimes against humanity, so that they are personally responsible for their own actions and

for all actions perpetrated by persons in pursuance of the common purpose (indictment).

To (a), it will have to be stated that the establishment of concentration camps as such is to be attributed neither to the defendants nor to the National Socialist regime, furthermore, that one cannot get away from the fact that the concentration camps of the Hitler regime had a legal foundation, moreover, that it would be going far from historical truth to maintain that these concentration camps from the very beginning, fundamentally and in general were conducted on criminal and bestial lines; furthermore it will have to be stated that not everything, caused by the growing hardships and necessities of war in the concentration camps, can be considered today as individual criminal guilt, and finally that the insane mass crimes, which actually happened then in the concentration camps, cannot be summarily attributed to each defendant. Insofar as the conditions in the concentration camps developed into crime, they were carefully and cunningly kept secret from everyone not directly concerned. It would mean underrating the intelligence of the system, to believe that at least in the WVHA everyone working there must have had an insight into all or part of what the accusation consists of today. Nothing would be more unjust than to assume without positive evidence a knowledge of the committed crimes in the case of each defendant, thus too of the defendant Hermann Pook, and to declare him guilty and to sentence him on the basis of such hypothetical knowledge.

The defendant Hermann Pook although he worked in office D III, knew as little and as much of the criminal conditions and actions in the concentration camps as every average German at the time. Perhaps that seems incredible, but it will be proved just as the further fact that the defendant Hermann Pook never took part in conferences of the office chiefs or in other conferences of the office group D III, furthermore, that from the men sitting in the prisoners' dock with him, he knew only two personally, and even these only slightly, others he knew only from seeing them occasionally. However, most of them he did not even know by name, so for this reason alone the assumption of a conspiracy must be dropped with regard to the defendant Hermann Pook, that very defendant who only towards the end of 1943 was transferred to the office D III.

II

In view of the enormous quantity and seriousness of the committed crimes the prosecution has perhaps the comprehensible desire to prove as simply as possible the responsibility of the

accused men, by saying: The defendant who held a post in the central administration of the concentration camps knew about this and that; at least his knowledge can be assumed, or at any rate he should have known about it, consequently he is to be held responsible, and therefore he is to be considered guilty of the committed crimes. The same tendency can be found in the Control Council Law No. 10, which not only in a manner as general as possible established summaries of facts in regard to criminal law, but which in various points also seems to think in terms of a kind of automatic responsibility in the eyes of criminal law. Here looms the serious danger that, by a too generous treatment of the question of guilt, the general principles of penal law as they are envisaged in the penal codes of all cultured nations (indictment) are violated. On account of this danger, I may be permitted now to make in short some legal expositions, which will indicate which fundamental lines are followed by me in my defense, also their legal aspect.

1. The Control Council Law No. 10, which bears the heading "Punishment of persons *guilty* of war crimes, crimes against peace and against humanity," constitutes a big synthesis of political power and of law. It is an authoritative decision pronounced by the victors, whereby the facts for what is considered to be a crime against international law are established furthermore, whereby the individual responsibility of statesmen, of officials, and of soldiers is established and which finally establishes the competence of the Allied tribunals. By that, many of the customary conceptions about international law, are done away with and something new is created against which it would be entirely senseless to fight in the present trials. But at the same time, the victors submitted to the law, by granting legal proceedings to the persons accused of such crimes. Now this is done with a double aim: One wishes to treat those accused of crimes against the international rules of law, humanity, and ethics, according to these very rules and not according to political power and political interest, but also: The war crimes trials and also this trial have a much bigger task to fulfill than to mete out legal retribution in the individual case; the verdict should be a convincing contribution to a revival of the feeling of legal responsibility and the legal conscience of all nations.

2. The carrying through of legal proceedings, however, would be entirely meaningless if on the one hand factual evidence were admitted for the defendants, but on the other hand they were deprived of the possibilities to make legal depositions based upon the so far customary conception of penal law. Obviously it is not the purpose of the Control Council Law No. 10 to create some-

thing new with respect to the examination of individual responsibility of each defendant in the eyes of criminal law, it does not aim at breaking with the principles of the past in this respect, but it aims at decisions about the guilt of each defendant based on the generally applied legal principles, existent already before the Control Council Law No. 10.

A criminal culpability according to these principles can only be affirmed if the circumstance of knowledge and the circumstance of will are existent; ignorance and error therefore exclude an intentional criminal culpability in the same way as does involuntary action. The knowledge, moreover, must include the knowledge of the prohibited nature of the action, the perpetrator must also know that his action is against a rule, that it is illegal and prohibited. If the Reich court in permanent administration of justice declared the error in the eyes of criminal law as irrelevant and, in the question of guilty or not guilty only considers the error outside criminal law, I, with my point of view, am in no way in contradiction thereto. In my opinion no defendant can use the excuse that he did not know the laws of the German penal code, as far as the knowledge of the articles of the German penal code is not concerned, but rather the consciousness of the violation of international law, proof of such consciousness cannot be waived for the simple reason that no international law code is in existence which defines the summaries of facts of international crimes.

These considerations will undoubtedly apply to every defendant in this trial. In the case of the defendant Hermann Pook, for instance, the following questions must be decided in accordance with these considerations: Can he legally be punished solely on the basis of the facts that he was knowingly employed in the central administration of the concentration camps; or for the reason that he knew that the inmates of the concentration camps had to work; or because he knew, that the gold was removed from the dentures of deceased inmates?

3. The problem of the consciousness of illegality leads to the problem of illegality itself.

Here I represent the following point of view: Illegal is not only what constitutes the facts of a case in the technical sense, as say, the facts of a case of the German penal code. The thesis is also rejected that only the state may determine what is right and wrong: what conforms with *its* purpose and *its* interests is right, and what is detrimental to the interests of the state is wrong. This view by the way, is no National Socialist invention, but is as old as the philosophy of state and law itself. The German jurist, Otto Gierke, already has said decades ago concerning this sub-

ject: "The high name of the law would in case of such an interpretation—right is what the state proclaims to be right—only reserve the purpose of veiling the bare fact that among men there exists no other order than the might of the strong over the weaker." There exists an ethical world order which supersedes every national conception of right and wrong, there is a legal conscience of nations and an unwritten international law (common law of nations) to which every individual and every state is subordinate in peace and in war in their actions.

What is contrary to law in the individual case, that again is decided by the judge according to his estimate and his standards, according not only to the opinion of his time but also of his people; he decides accordingly what his people accept as worthy in their lives and what they recognize as such. One can be so bold as to state then: Right and wrong is, even if one acknowledges the existence of a divine idea of right, nevertheless in its last analysis a political question. This becomes particularly obvious in wartime when the conceptions of right of the parties waging not diverge hopelessly, wherein not only the reason of state but also especially the "*necessité de la guerre*" plays an important part. I do not believe that the defendant Hermann Pook will be seriously held responsible for the medical experiments in the concentration camps and the so-called slave labor, but I wish to point out that just on this point particularly with respect to these two spheres, the distinction between right and wrong is not at all unequivocal and clear, this applies even more so to the setting up of concentration camps as such.

4. To this must be added that not every illegal act in itself is punishable under criminal law. Whoever violates a distinct law of nations, whether it arises from an international agreement or "out of custom established among civilized nations, out of the laws of humanity and the demands of the public conscience," is only then responsible in the eyes of criminal law if a genuine "*jus strictum*" (strictly defined law) is involved. In other words, not a must-precept or a recommendation which the parties to the agreement have given each other for their national legislation. An infraction of the rules of equity is since time immemorial not criminally punishable, for the rules of equity exist rather in the soul of the people and in the perception of the judge.

The question of the *jus strictum* leads at the same time right back to the question of criminal responsibility. The Control Council Law gives fact cases which can be regarded as *jus strictum* only insofar as they are in conformity with fact cases of the national German penal code. It would be contrary to logic as well as to the generally accepted principles of modern penal law

if one were to assume for oneself the right of defining the existence of say, an "inhumane act," because an "inhumane act" is a word for a moral quality or lack of quality, and not an objective case founded on facts. Furthermore, it would again be contrary to ethics and generally accepted legal principles appertaining to criminal law if today one were to find somebody guilty in retrospect because he has violated a law which at the time of the perpetration of the act was not even in existence, not to speak of being punishable. On the contrary, perhaps the act which today is unlawful and punishable was at that time explicitly ordered by the state.

5. At this time I must also discuss the question of the legitimate order by a superior.

Already from the Roman law to the modern law of today of all civilized countries a legitimate order by a superior exempts the perpetrator from guilt. He whose will is bound by a valid order is not legally responsible in the eyes of criminal law, because the will of the one who gives the order supersedes the will of the obeying. If the order is unlawful, criminal, and appears so to the obeying party, but only then responsibility in the eyes of criminal law of the obeying party can be considered. Otherwise as a matter of fairness and humanity the duty of a soldier to obey must be respected. The defendant Hermann Pook, too, was a soldier and was subject to the provisions of the German Military Criminal Code. Of course, one should not and must not attempt to justify every war crime by the fact that it was ordered from above, but on the other hand one cannot disregard the fact that as a general rule the soldier is entirely wrapped up in the army mentality and that with the increasing war hardships the confusion of the soldier also increases and his ability of moral criticism decreases. This is the reasoning of an ancient author.

When the Control Council Law No. 10 prescribes: The fact that a person acts under orders of his government or his superior does not absolve him of the responsibility for a crime; it can, however, be regarded as a mitigating circumstance, it is thereby unquestionably not intended that the subordinate is automatically responsible in the eyes of criminal law; this would be contrary to all legal principles. Obviously only the burden of proof is thereby put on the subordinate; it is up to him to prove to what extent he is not responsible; for instance, that he was unable to recognize the order as unlawful and criminal. If he cannot exonerate himself in accordance with general principles of law, the order by the superior can still be considered as mitigating circumstance.

The defendant Hermann Pook was drafted into the Waffen SS

in 1940 and was transferred toward the end of 1943 to the office D III as leading dental surgeon. In both cases, therefore, he obeyed military orders. The defendant belonged to the Reiter SS [SS cavalry] which was explicitly absolved from criminal guilt by the International Military Tribunal in its verdict. He can only be sentenced if his guilt can be proved in actual and legal respect. It will not be possible for the Tribunal to base a sentence on an assumption, much less on a fiction of criminal culpability.

IV. SELECTIONS FROM THE EVIDENCE ON IMPORTANT ASPECTS OF THE CASE

A. Development and Organization of the WVHA (SS Economic and Administrative Main Office)

I. INTRODUCTION

The "SS Economic and Administrative Main Office (WVHA)"—one of the twelve "Main Offices" of the SS—was established under that name in early 1942. The defendant Pohl was the chief of this office, and he had been the chief of similar offices which existed before under different names. The evolution, organization, personnel, and tasks of this office are the principal subjects of the materials included in this section. Evidence of the prosecution on pages 293 to 319 is followed by evidence of the defense on pages 319 to 348.

All the defendants were officials in the WVHA. During the trial questions of the criminal responsibility of the individual defendants were often not separable from the organization of the WVHA and the position of a particular defendant in that organization. Hence, materials related to substantive crimes are contained in the present section on organization of the WVHA, and in turn, materials related to organization again appear in the later section dealing principally with the alleged substantive crimes. Special reference is made to the subsection VI B, "The Defense of Mere Organizational or Administrative Association" on pages 786 to 801. The defense evidence reproduced in that section was calculated to show that there was no criminal responsibility because of the particular type of work performed by individual defendants within the organization framework of the WVHA.

2. SELECTIONS FROM EVIDENCE OF THE PROSECUTION

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-620	33	Table of organization of the SS Main Office Budget and Buildings and Main Office Administration and Economy before the establishment of the WVHA.	faces 292
NO-1451	21	Himmler's order, 20 April 1939, establishing the "Main Office Administration and Economy" also known as "Administrative and Economic Main Office."	293
NO-019(a)	24	Extract from letter of Himmler, December 1939, to SS Gruppenfuehrer Hildebrandt, stating responsibilities of Gluecks and defendant Pohl.	294
NO-3698	556	Letter from defendant Georg Loerner, 23 September 1940, concerning establishment of branch offices of the Main Office Budget and Buildings at the concentration camps to handle labor allocation of prisoners.	294
NO-495	37	Circular of defendant Pohl, 19 January 1942, announcing new organizational set-up under WVHA, and stating positions of defendants Frank, Georg Loerner, and Pohl.	296
R-129	40	Report by Pohl to Himmler, 30 April 1942, re taking over Inspectorate of Concentration Camps; circular of Pohl, same date, on administration of the camps.	298
NO-719	42	Himmler's reply, 29 May 1942, to defendant Pohl's report of 30 April 1942.	301
1063(F)-PS	39	Circular of Mueller (RSHA), 30 May 1942, announcing transfer of office of Inspector of Concentration Camps to WVHA, as division D.	302
NO-1994	88	Report by defendant Pohl to Himmler, 28 July 1942, asking approval for transfer, promotion, and detachment of concentration camp commanders; answer by Brandt, on behalf of Himmler, 23 August 1942.	303
NO-4510	718	Order signed by defendant Fanslau, 27 August 1942, transferring concentration camp Commander Suhren from Sachsenhausen to Ravensbrueck.	308

Doc. No.	Proc. Ex. No.	Description of Document	Page
NO-1016	46	Note to defendant Fanslau, 13 July 1944, for defendant Volk, and enclosure: description of "Organization and Tasks of office group W" of WVHA.	309
NO-111	38	Table of organization of WVHA (un- dated).	313

Testimony

Extracts from the testimony of the defendant Pohl.....	319
Extracts from testimony of defendant Georg Loerner.....	334
Extract from testimony of defendant Sommer.....	345
Extracts from testimony of defendant Fanslau.....	347

TRANSLATION OF DOCUMENT NO-1451
PROSECUTION EXHIBIT 21

HIMMLER'S ORDER, 20 APRIL 1939, ESTABLISHING THE "MAIN OFFICE
ADMINISTRATION AND ECONOMY" * ALSO KNOWN AS "ADMIN-
ISTRATIVE AND ECONOMIC MAIN OFFICE"

Copy

Distributor 4a

Berlin, 20 April 1939

The Reich Leader SS and Chief of the German Police

Subject: Establishment of a New Main Office.

1. With effect from 3 April 1939 the Office of the Administra-
tive Chief of the SS will be raised to the status of Main Office
in the Reich Leadership.

2. The new Main Office will be called:
"Main Office Administration and Economy"
abbreviated: "V and W Main Office".

3. The Administrative and Economic Main Office is a main
office like the other Main Offices of the Reich Leadership SS (SS
Main Office, SD Main Office, Race and Settlement Main Office,
Constabulary Police [Ordnungspolizei] Main Office, and Security
Police Main Office).

4. The chief of the Administrative and Economic Main Office
in the Reich Leadership SS will at the same time be chief of the
Main Office *Budget and Buildings* of the Reich Leader SS and
chief of the German Police in the Reich Ministry of the Interior
(Ministerialdirektor). His activities as such will be dependent
on the organization of the work of the office. The tasks of the
SD connected with politics and intelligence service will not be
affected (Administration and Economy).

The Reich Leader SS
[Signed] H. HIMMLER

Certified true copy:

BY ORDER OF THE ADMINISTRATIVE CHIEF OF THE SS

[Signature illegible]

SS Obersturmfuehrer and Adjutant

[Stamp] SS Race and Settlement Main Office

No.....19 April 1939

* See testimony of defendant Pohl, pp. 319 to 334, concerning period prior to this reor-
ganization of the office of the administrative chief of the SS.

TRANSLATION OF DOCUMENT NO-019(a)
PROSECUTION EXHIBIT 24

EXTRACT FROM LETTER OF HIMMLER, DECEMBER 1939, TO SS
GRUPPENFUEHRER HILDEBRANDT, STATING RESPONSIBILITIES OF
GLUECKS AND DEFENDANT POHL

Top Secret

Berlin, December 1939

The Reich Leader SS

Journal No. A/R

RF/Scho

To the Head of the SS Main Sector Weichsel [Vistula] Danzig
SS Gruppenfuehrer Hildebrandt

* * * * *

I decree for your Main Sector [Oberabschnitt], as well as for
all other Main Sectors:

Concentration camps may be established only with my approval.
Concentration camps existing at present are placed by me, with
immediate effect, under the Inspectorate of Concentration Camps
in charge of which is at present SS Oberfuehrer Gluecks. The
supervision of the economic matters of these institutions and
their application to work is the responsibility of SS Gruppen-
fuehrer Pohl.

Reich Leader SS

[initial] H H

[handwritten] 15/12

TRANSLATION OF DOCUMENT NO-3698
PROSECUTION EXHIBIT 556

LETTER FROM DEFENDANT GEORG LOERNER, 23 SEPTEMBER 1940,
CONCERNING ESTABLISHMENT OF BRANCH OFFICES OF THE
MAIN OFFICE BUDGET AND BUILDINGS AT THE CONCENTRATION
CAMPS TO HANDLE LABOR ALLOCATION OF PRISONERS

[handwritten]

Buchenwald (Grimm)

received 23 Sept. 1940

[initials] GR[imm]

COPY

Berlin-Lichterfelde-West, 14 Sept. 1940
Unter den Eichen 126a

The Reich Leader SS
and Chief of the German Police
in the Reich Ministry of Interior
Main Office Budget and Buildings
Office I/1 254 Pr.Qu.

Subject: Branch offices of the Main Office Budget and Buildings
for prisoner allocation.

In order to regulate the labor allocation of prisoners, offices of the Main Office Budget and Buildings have been established at the Inspector of the Concentration Camps. They will be under the business address of the Main Office Budget and Buildings and in addition to it will carry the name of the respective concentration camp. For instance—

“The Reich Leader SS
and Chief of the German Police
in the Reich Ministry of Interior
Main Office Budget and Buildings
Branch Office Mauthausen.”

Effective immediately the members of these offices will administratively be attached to the camps where they perform their duty.

Official residence is the place of the respective concentration camp. This will be in force as of 1 October 1940, in case other arrangements had been made before. All payments will be made at the competent finance office of the respective concentration camp.

This administrative transfer is solely for the purpose of expediency and is of no influence to the official position of the individuals concerned, who, as far as their official duty relationship is concerned, remain employees of the Main Office Budget and Buildings.

The Chief of Office I – Budget
[Signed] Loerner
SS Oberfuehrer

Certified:
[Signed] Groenlund
SS Sturmbannfuehrer
Certified true copy:
[signature illegible]
SS Hauptscharfuehrer

TRANSLATION OF DOCUMENT NO-495
PROSECUTION EXHIBIT 37

CIRCULAR OF DEFENDANT POHL, 19 JANUARY 1942, ANNOUNCING
NEW ORGANIZATIONAL SET-UP UNDER WYHA AND STATING
POSITIONS OF DEFENDANTS FRANK, GEORG LOERNER, AND POHL

[handwritten]

Commander

The Reich Leader SS

Berlin, 19 January 1942

Restricted

Subject: Organization of the Administration

Distribution: Special Distribution

[rubber stamp with handwritten insertions]

Office for Welfare and Maintenance SS

Munich — Administration

Received: 29 January 1942

File/No. ./ . Encl.: 1

Chief V 1 V 2 V 3 V 4 W.V. file

[illegible initial] Chief to remain

[Handwritten note] Copy to Dept. Welfare Dept. Maintenance Adminis-
tration Medical officer

Effective as of 31 January 1942 the following offices are dis-
solved:

1. Main Office Budget and Buildings.
2. Main Office Administration and Economy.
3. Administrative Office SS.

The tasks of the offices enumerated under 1-3 will be taken over
as of 1 February 1942 by the SS Economic and Administrative
Main Office [SS W. V. Hauptamt] Berlin-Lichterfelde-West,
Unter den Eichen 127/136

Chief: SS Gruppenfuehrer and Major General of the
Waffen SS Pohl

Deputy: SS Brigadefuehrer and Brigadier General of the
Waffen SS Frank

In this Main Office all economic, administrative, and construction
matters of the Reich Leader SS will be dealt with at ministerial
level. The SS Economic and Administrative Main Office is split
up into the following divisions and offices:

Division A Chief: SS Brigadefuehrer and Brigadier General of
the Waffen SS Frank

with offices: A I Budget office,

Budget of the Waffen SS and of the Gen-
eral SS (Reich cashier of the SS).

A II Cash and salary matters.

A III Legal office.

A IV Auditors' office.

A V Personnel office.

Division B Chief: SS Brigadefuehrer and Brigadier General of
the Waffen SS Loerner

with offices: B I Food.

B II Clothing.

B III Housing.

B IV Raw materials, price control, foreign currencies, and purchases.

Division C Chief: SS Oberfuehrer Dr. Ing. Kammler

with offices: C I General construction tasks.

C II Special construction tasks.

C III Special technical spheres.

C IV Special artistic spheres.

C V Central inspectorate for constructions.

C VI Maintenance of buildings and business economy.

Division W Chief: SS Gruppenfuehrer Pohl

W I Stones and soil (Reich).

W II Stones and soil (East).

W III Food enterprises.

W IV Timber enterprises.

W V Agriculture, forestry, and fisheries.

W VI Utilization of textiles and leather.

W VII Books and pictures.

W VIII Special tasks.

The "Office IV Administration" in the Operational Main Office continues to exist.

As of 1 February 1942 all offices subordinated to the Operational Main Office have to address their letters in administrative matters to Office IV in the Operational Main Office.

The Chiefs of administration of all Main Offices, Main Sectors, the Higher SS and Police Leaders, Military Camp Stores, the Inspectorates for Constructions and other independent units will negotiate as of 1 February, directly with the Economic and Administrative Main Office.

This change in organization will result in either the dissolution or concentration of a number of administrative offices in the Reich and in the occupied territories. The necessary orders will be given soon.

ACTING FOR:

[Signature] POHL

SS Gruppenfuehrer and Major General of the Waffen SS

TRANSLATION OF DOCUMENTS R-129
PROSECUTION EXHIBIT 40

REPORT BY POHL TO HIMMLER, 30 APRIL 1942, REGARDING TAKING
OVER INSPECTORATE OF CONCENTRATION CAMPS; CIRCULAR OF
POHL, SAME DATE, ON ADMINISTRATION OF THE CAMPS

[Stamp:]

Personal Staff Reich Leader SS
Records Section
File No. AR 1/24

The Chief of the SS Economic and Administrative Main Office
Ch.Po/Ha
2192/42 g

Berlin, 30 April 1942

The Reich Leader SS
Berlin, W 11
Prinz Albrechtstr. 8

[pencilled note]

Education and supervision remain the same

[initials] H. H.

Subject: Incorporation of the Inspectorate of Concentration
Camps into the SS Economic and Administrative
Main Office.

[Stamp] Secret

Reich Leader!

Today I report about the present situation of the concentration
camps and about measures I have taken in order to carry out your
order of 3 March 1942.

I

1. At the outbreak of war there existed the following concen-
tration camps:

- a. Dachau 1939.. 4,000 prisoners.. today.. 8,000
- b. Sachsenhausen . . . 1939.. 6,500 prisoners.. today.. 10,000
- c. Buchenwald 1939.. 5,300 prisoners.. today.. 9,000
- d. Mauthausen 1939.. 1,500 prisoners.. today.. 5,500
- e. Flossenbuerg 1939.. 1,600 prisoners.. today.. 4,700
- f. Ravensbrueck 1939.. 2,500 prisoners.. today.. 7,500

2. In the years 1940 to 1942 nine further camps were erected,

viz:

- a. Auschwitz.
- b. Neuengamme.
- c. Gusen.

- d. Natzweiler.
- e. Gross-Rosen.
- f. Lublin.
- g. Niederhagen.
- h. Stutthof.
- i. Arbeitsdorf.

3. These 15 camps conformed to the organization of the old concentration camps in regard to duties, work, composition of the commanding staffs, and discipline of camps for protective custody. Besides these 15 camps the following special duties have been assigned:

a. To SS special camp Hinzert: Commanding staff and guards are under my orders. The camp for protective custody is attached to the Reich Security Main Office. No workshops, no opportunity to work.

b. Camp for the protection of youth, Moringen: no workshops.

c. Camp for the protection of youth, Uckermark: is being erected.

d. Camp for the protection of youth, Lodz: is planned.

4. During the last weeks the Reich Security Main Office and headquarters of the Waffen SS have applied for SS leaders for the camps planned by these authorities in Riga, Kiev, and Bobruisk. I think it right to submit such plans to the SS Economic and Administrative Main Office so that they may be planned and carried out uniformly by one authority for SS and Police. There may easily be lack of collaboration and consequently ensuing muddle.

II

1. The war has brought about a marked change in the structure of the concentration camps and has changed their duties with regard to the employment of the prisoners. The custody of prisoners for the sole reasons of security, education, or prevention is no longer the main consideration. The economic situation has now become the most important factor. The mobilization of all prisoner labor [forces], for purposes of the war now (increased production of armament), and for purposes of construction in the forthcoming peace, come to the foreground more and more.

2. From this knowledge some necessary measures result with the aim to transform the concentration camps into organizations more suitable for the economic task, while they were formerly merely politically interested.

3. For this reason I called together all the leaders of the former Inspectorate of Concentration Camps, all camp commanders, and

all plant managers on 23 and 24 April 1942, and I explained to them personally, the new development. I have compiled in the order attached the main essentials which have to be brought into effect with the utmost urgency if the commencement of work for purposes of the armament industry is not to be delayed.

4. The transfer of the Inspectorate of Concentration Camps to the Economic and Administrative Main Office has been carried out under full agreement of all Main Offices concerned. The collaboration of all authorities goes on without any friction, the abolishment of lack of coordination in the concentration camps is hailed everywhere as the shedding of the fetters hindering progress.

Heil Hitler!

[Signed] POHL

SS Obergruppenfuehrer and Lieutenant General of the Waffen SS
1 enclosure

[Stamp]

Personal Staff Reich Leader SS
Records Section
File No. AR 1/24

The Chief of the SS Economic and Administrative Main Office
Ch. Po./Ha.

Berlin, 30 April 1942

Distribution: Chief division D
all camp commanders
all plant managers
all Economic Offices
[handwritten] agreed
[initials] HH [?]

Order

The instructions and advices given to the camp commanders and plant managers at the occasion of the discussions on 24 and 25 April 1942, are herewith issued as an order to become applicable as of 1 May 1942.

1. The *management of a concentration camp* and of all the economic enterprises of the SS within its sphere of organization is in the hands of the camp commander. He alone is therefore responsible that the economic enterprises are as productive as possible.

2. For the *management of the economic enterprises* the camp commander avails himself of the services of the plant manager. The plant manager is bound to report to the camp commander whether he expects any risks or disadvantages in carrying out an order of the camp commander as to the work or the economic results.

3. By this duty the plant manager becomes *jointly* responsible if any damages or failures ensue with regard to the work or the economic results.

4. The camp commander alone is responsible for the employment of the labor available. This employment must be, in the true meaning of the word, exhaustive, in order to obtain the greatest measure of performances. Work is allotted by the chief of the division D centrally and alone. The camp commanders themselves may not accept on their own initiative work offered by third parties and may not negotiate about it.

5. There is no limit to *working hours*. Their duration depend on the kind of working establishments in the camps and the kind of work to be done. They are fixed by the camp commanders alone.

6. Any circumstances which may result in a shortening of work hours (e.g., meals, roll calls) have therefore to be restricted to the minimum which cannot be condensed any more. It is forbidden to allow long walks to the place of working and noon intervals only for eating purposes.

7. Guard duties have to be freed from their traditional rigidity and to be made more flexible having regard to the coming tasks of peace. Sentries on horseback, watchdogs, movable watch towers, and movable obstacles are to be developed.

8. Much more than before is required from each and every camp commander if they carry out his order correctly. Hardly any camp is like any other one, therefore, no uniform instructions shall be issued. But the whole responsibility is shifted on to the initiative of the camp commander. He needs a clear professional knowledge of matters military and economic and he must be a clever and wise leader of men whom he has to weld into a big potential of performance.

[Signed] POHL

SS Obergruppenfuehrer and Lieutenant General of the Waffen SS
For correct copy:

[Signed] SCHILLER

SS Obersturmfuehrer and Adjutant

TRANSLATION OF DOCUMENT NO-719
PROSECUTION EXHIBIT 42

HIMMLER'S REPLY, 29 MAY 1942, TO DEFENDANT POHL'S REPORT
OF 30 APRIL 1942

Fuehrer Headquarters
29 May 1942

The Reich Leader SS
Journal No. AR. 31/4/42

[Stamp]
Personal Staff Reich Leader
Archives
File No. AR 1/24

Subject: Incorporation of the Inspectorate of Concentration
Camps into the SS Economic and Administrative
Main Office.

Reference: Yours [report] of 30 April 1942 — 2192/42g.
RF/V

Dear Pohl:

I have received your report of 30 April as well as your order of 30 April concerning the incorporation of the Inspectorate of Concentration Camps.

On the whole, I quite agree with all points. I think however, that it should be stressed somehow that no change of policy took place regarding the questions of a reexamination of the custody order as well as the educational aims for those fit for education. Otherwise, the idea could arise that we arrest people, or keep them in custody after they have been arrested in order to get workers. For this reason the emphasis on and clarification of the fact that reexamination of custody order remains unchanged and independent from the economic purpose. Besides that, and giving a hundred percent priority to the labor to be gotten out [of the prisoners], I feel that the camp commanders should take care of the education of those fit for education.

Heil Hitler

Yours,

[initials] HH [Heinrich Himmler]

(2) Chief of the Security Police and SD

BERLIN

Copy for information transmitted.

BY ORDER

[initial] B[randt]
SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT 1063(F)-PS
PROSECUTION EXHIBIT 39

CIRCULAR OF MUELLER (RSHA), 30 MAY 1942, ANNOUNCING
TRANSFER OF OFFICE OF INSPECTOR OF CONCENTRATION
CAMPS TO WVHA AS DIVISION D

Berlin, 30 May 1942

Chief of Security Police and SD (Security Service)
(IV C 2 Allg No. 42 111)

To:

All Offices of the Security Police and the SD
Distribution D

For information:

SS Economic Administration Main Office (with 20 points for
division D, concentration camps, and concentration camp com-
manders)

Subject: Incorporation of the office of Inspector of Concentra-
tion Camps into the SS Economic Administrative
Main Office.

By order, dated 3 March 1942, of the Reich Leader SS and
Chief of the German Police, the office of the Inspector of Con-
centration Camps was transferred from SS Operational Main
Office (Fuehrungshauptamt) to the SS Economic Administrative
Main Office and in the future is to be known as division D
[Amtsgruppe D], concentration camps.

This measure serves the direction of the war effort with regard
to manpower and does not affect the responsibilities of the Reich
Security Main Office for arrests and releases of inmates, leaves,
etc.

ACTING FOR:

[Signed] MUELLER

Verified:

BLEECK

Office employee

TRANSLATION OF DOCUMENT NO-1994
PROSECUTION EXHIBIT 88

REPORT BY DEFENDANT POHL TO HIMMLER, 28 JULY 1942, ASKING
APPROVAL FOR TRANSFER, PROMOTION, AND DETACHMENT OF
CONCENTRATION CAMP COMMANDERS; ANSWER BY BRANDT,
ON BEHALF OF HIMMLER, 23 AUGUST 1942

[stamp]

Personal Staff Reich Leader SS
Records Section
File AR/ 67

SS Chief of Economic and Administrative Main Office
Ch.A./Fr/B.

Diary No. 635/42 Secret

Berlin, 28 July 1942
Lichterfelde-West
Unter den Eichen 126-135
Telephone: Local call 76/52/51
Trunk call 76/51/01

SECRET

To the Reich Leader SS

[illegible shorthand notations]

via

Chief of the SS Personnel Main Office,
SS Obergruppenfuehrer Schmitt,
Berlin

Subject: Reassignment and detachment of commanders of concentration camps.

Enclosure: Suggestion and Explanations.
Reich Leader!

Enclosed, I am sending the recommendation on the reassignment and detachment of commanders of concentration camps, already announced in my letter of the 27 July 1942, last paragraph.

For better clarity I listed all camps, even where no changes are intended.

As far as promotion is necessary and justifiable in official interest, I added the recommendation for promotion.

The remarks to the recommendation indicate what use is to be made of the replaced commanders of the concentration camps.

Reich Leader, I request communication via teletype whether you agree to this suggestion.

Heil Hitler!

[Signature] POHL

SS Obergruppenfuehrer and Lieutenant General of the Waffen SS

[Enclosure]

[Stamp]

Personal Staff Reich Leader
Records Section
File AR/ 67

Explanations

To current No. 1: As of 15 September 1942 SS Obergruppenfuehrer Loritz will be available as SS and Police Leader. Up to now SS Sturmbannfuehrer Weiss was commander of the Neuengamme camp.

[illegible shorthand notations]

To current No. 2: SS Standartenfuehrer Koch is to be employed with replacement work as he is fit for rear garrison service.

To current No. 5: SS Hauptsturmfuehrer Hoppe is to take over Stutthof camp on 15 August 1942, at the same time he will be promoted to Sturmbannfuehrer.

To current No. 6: SS Sturmbannfuehrer Huettig is still in Norway until October 1942. Till then the first protective custody camp leader [Schutzhaftlagerfuehrer] Flossenbuerg, SS Hauptsturmfuehrer Fritsch will act as his substitute. SS Obersturmbannfuehrer Kuenstler takes over a battalion of the "Prinz Eugen" division. Obersturmbannfuehrer Kuenstler has already been line officer [Truppenoffizier], Juettner agrees.

[illegible shorthand notes]

To current No. 7: SS Obersturmbannfuehrer Roedl is to be assigned to the SS and Police Leader Tauri [Southern Crimea].

[illegible shorthand notes]

Up to now SS Hauptsturmfuehrer Gideon was in Neuengamme concentration camp.

To current No. 8: On 15 August 1942 SS Obersturmfuehrer Suhren is to take over that camp. At the same time he will be promoted to Hauptsturmfuehrer. Up to now, he has been first protective custody camp leader at Sachsenhausen.

[illegible shorthand notes]

To current No. 10: SS Obersturmbannfuehrer Piorkowski will be employed by SS Brigadefuehrer Dr. Haertel in the office for welfare and maintenance. SS Obersturmbannfuehrer Kaindl, who is to take over that camp on 1 September 1942, was up to now on the staff of SS Brigadefuehrer Gluecks, division D. SS Obersturmbannfuehrer Kaindl served with the Division Eicke for 2 years as official in the administration service and commander of the economics unit [Wirtschaftseinheit].

To current No. 12: Up to now SS Sturmbannfuehrer Pauly was commander of Stutthof camp.

To current No. 14: That camp will be disbanded on 1 October 1942.

[Enclosure]

Current No.	Concentration camps	Commander up to now	Replacement by	Effective
1	Sachsenhausen	SS Oberf. Loritz	SS Stubaf. Weiss	15 Sept. 42
2	Lublin	SS Staf. Koch	SS Ostubaf. Koegel	20 Aug. 42
3	Buchenwald	SS Ostubaf. Pister		
4	Mauthausen	SS Ostubaf. Ziereiss		
5	Stutthof	SS Stubaf. Pauly	SS Hstuf. Hoppe	15 Aug. 42
6	Flossenbuerg	SS Ostubaf. Kuenstler	SS Stubaf. Huettig	1 Oct. 42
7	Gross-Rosen	SS Ostubaf. Roedl	SS Hstuf. Gideon	1 Sept. 42
8	Ravensbrueck	SS Ostubaf. Koegel	SS Ostuf. Suhren	15 Aug. 42
9	Auschwitz	SS Ostubaf. Hoess		
10	Dachau	SS Ostubaf. Piorkowski	SS Ostubaf. Kaindl	1 Sept. 42
11	Natzweiler	SS Stubaf. Zill		
12	Neuengamme	SS Stubaf. Weiss	SS Stubaf. Pauly	1 Sept. 42
13	Niederhagen	SS Hstuf. Haas		
14	Arbeitsdorf	SS Hstuf. Schitli		
15	Special camp Hinzert	SS Ostuf. Sporrenberg		

[Handwritten] "noted"

[initial illegible]

30 July 1942

[stamp]

Personal Staff Reich Leader SS
Records Section
File No. AR/ 67

The Reich Leader SS
Personal Staff
Diary No. AR 18/32/42, Bra/Dr.

Field Detachment Office
23 August 1942

[Stamp]

Personal Staff Reich Leader SS
Records Section
File No. AR/67.....

SECRET!

Subject: Reassignment and detachment of commanders of the concentration camps.

Reference: Your letter of 28 July 1942 — Ch.A/Fr/B. Diary
No. 635/42 Secret

1. To SS Obergruppenfuehrer Pohl
Berlin

Dear Obergruppenfuehrer!

Unfortunately I did not have the opportunity in Berlin to inform you of the opinion of the Reich Leader SS as to your letter of 28 July 1942. As I already told you, the Reich Leader in principle agrees to your recommendations for changes of appointment in the concentration camps. He only made the following remarks:

1. Legal action should be taken against SS Standartenfuehrer Koch. Only after conclusion of this action should he be employed with replacement work.

2. SS Obersturmbannfuehrer Kuenstler has to be adequately reprimanded. If the Reich Leader SS would once more hear about orgies and drinking excesses, SS Obersturmbannfuehrer Kuenstler would lose his epaulettes; then he would be locked up for years.

3. Legal action shall be taken against SS Obersturmbannfuehrer Piorowski. The Reich Leader SS would like to know why he is not in service. During the next days I will tell the Reich Leader SS your information by telephone that P. is fit for rear garrison service only.

4. The Reich Leader SS agrees to the promotion of SS Hauptsturmfuehrer Hoppe to SS Sturmbannfuehrer, and of SS Obersturmfuehrer Suhren to SS Hauptsturmfuehrer, which you asked for.

The SS Personnel Main Office received a copy of this letter addressed to you.

Heil Hitler!
[Signed] BRANDT
SS Obersturmbannfuehrer

2. To the SS Personnel Main Office, Berlin

Copy for information.

SS Obersturmbannfuehrer Roedl can be placed at the disposal of SS Obergruppenfuehrer Pruetzmann for road construction.

[Initial] Br
SS Obersturmbannfuehrer

24 August 1942

TRANSLATION OF DOCUMENT NO-4510
PROSECUTION EXHIBIT 718

ORDER SIGNED BY DEFENDANT FANSLAU, 27 AUGUST 1942, TRANS-
FERRING CONCENTRATION CAMP COMMANDER SUHREN FROM
SACHSENHAUSEN TO RAVENSBRUECK

SS Main Economic & Administrative Main Office
Telephone : Local 765261
Long distance : 765101
File No. : AV/2b/Per/SP/Scho

Berlin, 27 August 1942

Lichterfelde - West

Unter den Eichen 126-135

[Stamp]

SS Main Personnel Office

1 September 1942

Order of Transfer

In agreement with the SS Personnel Main Office Obersturm-
fuehrer (R) Fritz Suhren, SS No. 14682, at present:

Concentration Camp Sachsenhausen—1st Protective Custody
—Camp Leader—

is, effective 1 September 1942, transferred to the F.—[women]
concentration camp Ravensbrueck as camp commandant and, at
the same time, promoted to SS Hauptsturmfuehrer (R)

Entering duty on 1 September 1942.

Report

The Chief of the Personnel Office

[Signature] FANSLAU

SS Standartenfuehrer

[handwritten] 3918

To be informed:

1. SS Main Personnel Office.
2. SS Main Economic and Administrative Office—Amtsgruppe
D.
3. Concentration camp Sachsenhausen.
4. SS Hauptsturmfuehrer (R) Suhren.
5. To the files.

[Stamp]

SS Main Personnel Office

1A1 Central Filing office

Change of card index:—done

Change of files 23. 9. Uf

[stamp]

[initials illegible]

5 Sept 1942

[initial illegible]

TRANSLATION OF DOCUMENT NO-1016
PROSECUTION EXHIBIT 46

NOTE TO DEFENDANT FANSLAU, 13 JULY 1944, FOR DEFENDANT
VOLK, AND ENCLOSURE: DESCRIPTION OF "ORGANIZATION AND
TASKS OF OFFICE GROUP W" OF WVHA

[illegible marginal sign]

Berlin, 13 July 1944
Dr. [illegible] /Mi.

To SS Oberfuehrer Fanslau
in the building

Subject: Contribution to lectures.

Reference: Your letter of 1 July 1944

Enclosures: 2

Oberfuehrer!

In the enclosure 2 compositions are submitted for SS Haupt-
sturmfuehrer Dr. Volk, presently absent.

[initial illegible]
SS Hauptsturmfuehrer

* * * * *

[Enclosure]

Organization and Tasks of Office Group W [Wirtschaft-Economy]

Division W comprises all economic enterprises under SS control. In studying the W enterprises first of all the urgent question arises: Why does the SS engage in business? This question was brought forward especially by circles who think in exclusively capitalistic terms and who do not like to see the development of public enterprises, or of enterprises which at least are of a public character.

The era of the liberal economic system demanded the precedence of economy, that is to say: first came the economy and then the State. In contrast to that National Socialism maintains this point of view:

The State gives orders to the economy; the State does not exist for the benefit of the economy; but the economy exists for the benefit of the State.

The activities of the Allies, which brought about the present World War, confirmed the rightness of the principles of National Socialist economic leadership, which introduced an economy controlled by the State as early as 1933. The economy had to face problems which under all circumstances had to be solved in case war should break out. It was during this time that the economic enterprises of the SS were developed.

The Reich Leader SS in his capacity as chief of the German

Police was confronted with the task of solving problems, which the Reich as such was not able to solve, viz. to get hold of all antisocial elements, who no longer had a right to live within the National Socialist State, and to turn their working strength to the benefit of the whole nation. This was effected in the concentration camps. The Reich Leader SS, therefore, delegated SS Obergruppenfuehrer Pohl to set up concentration camp enterprises. In addition, he gave orders to establish companies on a private economy basis for the purpose of employing the prisoners.

All shareholders or partners in the single companies, carried on in the form of the joint stock company [A.G.] or of a limited company [G.m.b.H.] are united in the Deutsche Wirtschaftsbetriebe G.m.b.H., all shares of which in their turn are under the supervision of the chief of the main office of the SS Economic and Administrative Main Office, SS Obergruppenfuehrer and Lieutenant General of the Waffen SS Pohl acting in a trustee capacity for the Reich Leader SS. Apart from this capital relationship most of the economic enterprises furthermore are linked with the holding company by an organic tax relationship.

According to this identity in the field of production the single economic enterprises maintained by the SS are united in the offices W I-VIII. At head of these offices stands the W staff of SS Obergruppenfuehrer Pohl, regarded from the point of view of private economic the Deutsche Wirtschaftsbetriebe G.m.b.H.

Office W I includes enterprises connected with the exploitation of minerals and soil, granite quarries, and tile works. Prisoners are used as labor. In several porcelain factories, also belonging to office W I some of the workers are prisoners, others civilian workers. The porcelain factory Allach Munich G.m.b.H and the "Bohemia" Keramische Werke A.G. are firms known to everybody.

Arising from the cultural endeavor of the SS and originating in the idea, of providing every SS man and his family with a suitable home, wood manufacturing firms were set up at a very early date which in part are working with prisoners and in part with civilian manpower. While in peacetime these factories manufactured the finest furniture, today, governed by the idea of mobilizing all available forces for victory, they are almost exclusively engaged in work for armament and war economy.

The enterprises important for war economy, include the following firms:

- Deutsche Ausruestungswerke G.m.b.H.
- Deutsche Meisterwerkstaetten G.m.b.H., in Prague.
- Deutsche Edelmoebel A.G., in Butschowitz near Brno.
- Deutsche Heimgestaltung G.m.b.H.

In 1939 Poland was defeated in a unique campaign of 18 days. Many people of German race from the Bucovina, Bessarabia, Galicia, etc., found a second home within this territory which became incorporated into the greater German Reich as the Government General.

It was a task of highest ranking importance to build residences and houses for the German population in the new German Eastern territories with the maximum possible speed, in order to provide them [population] again with a proper home.

In order to get the market for building material under way the first condition was that building materials had to be produced. At that time SS Obergruppenfuehrer Pohl, acting on the orders of the Reich Leader SS in his capacity as Reich Commissioner for the Strengthening of Germanism, took over the greater part of these building material production plants as a trustee. These building material production plants for the greater part were kept working by Polish or Jewish capital funds.

Almost 400 plants had to be administered by the chief of the Main Office. He founded the office W II which was in charge of keeping up production in these plants. It was clear from the beginning that these enterprises could not be carried on for good as trusteeship enterprises. Therefore, in agreement with the Reich Commissioner for the Strengthening of Germanism, a limited company was established, the Ostdeutsche Baustoff G.m.b.H., which carries on production in the tileworks, on behalf of the Reich. A subordinate company is represented by the Klinker Zement G.m.b.H., which mainly produces fire bricks and cement.

Office W III comprises all the food producing plants under SS control. In founding these enterprises the Reich Leader SS was governed by the idea that alcohol is responsible to a great extent for the large number of accidents and crimes. In order to decrease the drinking of alcohol it was necessary to bring into the market a cheap beverage, available also to the poorest of our fellow citizens. So it happened that the shares of the Mattoni A.G., of the Apollinaris Brunnen A.G., as well as the shares of the Sudetenquell were acquired by the SS, which after carrying through these transactions holds 75 percent of the mineral water market.

Besides the cheap, but delicious table and medical waters the Reich Leader SS however has ordered that the enterprises under office W III have to produce fruit juice from purest fruit only, in order to counteract lack of vitamins especially now under the prevailing war conditions. This so-called "Vitaborn", which in the first place is intended for expectant and nursing mothers as well as for the soldiers, is being produced by the Freudenthaler

Getraenke G.m.b.H. The Deutsche Lebensmittel G.m.b.H, which also works under the supervision of the chief of office W III is purely a supply enterprise for the concentration camps and the troops. It produces sausage, bread, and meat.

The economic enterprises have not only industrial agriculture factories, but are also occupied with agriculture. All these enterprises are included in office W V. Numerous estates are used for agriculture or forestry. The legal possessor is the Deutsche Versuchsanstalt fuer Ernaehrung und Verpflegung G.m.b.H. The Deutsche Versuchsanstalt also has plantations for herbs. As a result of the war it is hardly possible to import the spices which are absolutely necessary for housekeeping, the products of the herb plantation, Dachau, furnish a welcome substitute.

The Textil- und Lederverwertung m.b.H., is another industrial enterprise within office W VI. It produces clothing for prisoners and troops.

The circle of the economic enterprises of the SS would not be complete, if it did not also have a great publishing office, to introduce the ideological views of the SS to its SS members and further to additional circles of the population. The Nordland Publishing Office G.m.b.H., has developed a great deal during the last year and now belongs to the main publishing firms and already today occupies the fifth place among the main publishing firms of the greater German Reich. Besides this Nordland publishing firm, we have the Voelkischer Kunstverlag which in the main produces pictures, e.g., photographs of the Fuehrer, the Reich Leader SS and other important Party and State personalities. In addition it produces reproductions of oil paintings. Nordland Publishing House and Voelkischer Kunstverlag work under supervision of the chief of office W VII.

Office W VIII is the last office of the economic enterprises. Attached to it are:

1. Recreation centers fuer Naturgemaesse Heil- und Lebensweise e. V.
2. Recreation centers fuer Naturgemaesse Heil- und Lebensweise G.m.b.H.
3. Gesellschaft zur Foerderung und Pflege deutscher Kulturdenkmaeler G.m.b.H.
4. Koenig Heinrich foundation.
5. Externsteine foundation.

The Gesellschaft zur Foerderung und Pflege deutscher Kulturdenkmaeler has the task of carrying out the development of certain places of culture, e.g., the Wewelsburg.

In the recreation centers fuer Naturgemaesse Heil- und Lebensweise, which will be enlarged considerably after the war,

each SS man and his family are to be able to enjoy real recreation, that is the idea of Reich Leader SS. During the war, the administration, also the administration of all SS hospitals, is conducted by office W VIII.

TRANSLATION OF DOCUMENT NO-111
PROSECUTION EXHIBIT 38

TABLE OF ORGANIZATION OF WVHA (UNDATED)

[Note: Parenthesis () = crossed out material in original document.
Italic = handwritten insertions in original document.]

SS ECONOMIC ADMINISTRATIVE MAIN OFFICE

Chief: SS *Obergruppenfuehrer* and General (Leutnant) of
the Waffen SS Pohl

Deputy: (SS Brigadefuehrer and General Major of the Waffen
SS Frank) *SS Gruppenfuehrer Loerner*

Secret

Secret Journal No. 173/42
Only for service use,
publication prohibited!

Adjutant's Office
Personal Office
Legal and Welfare Offices
Reviewing Offices for Economic Matters—German Economic Enterprises G.m.b.H.
Factory Inspector
Main Reception Office
Headquarter's Commandant
Archives

DIVISION [OFFICE GROUP] A
ADMINISTRATION OF TROOPS

Chief: (SS Brigadefuehrer, Generalmajor of
the Waffen SS Frank)

(Deputy: SS Standartenfuehrer) Fanslau *SS
Brigadefuehrer*

(Adjutant and Company
Commander: SS Hauptsturmfuehrer) Solleder

Office A I : Office of budgets.
SS Oberfuehrer
(SS Standartenfuehrer) Loerner

- A I/1: Budget of the Waffen SS.
- A I/2: Budget of the General SS.
(Reich Treasury Administration) [Reichskassenverwalter] [Parenthesis in original.]
- Office A A I/3: Savings deposits bank [Spargemeinschaft].
- Office A II : Finance and payroll matters.
(SS Obersturmbannfuehrer Eggert)
SS Hauptsturmfuehrer Kukatsch i.V. [acting for].
- A II/1: Payment matters.
- A II/2: Treasury and accounts.
- A II/3: Office of fees.
- Office A III : Legal office.
SS Oberfuehrer Dr. Salpeter
SS Brigadefuehrer and Generalmajor of the Waffen SS Frank.
- A III/1: General legal, tax, and contract matters.
- Office A A III/2: Real estate and buildings register.
- Office A IV : Accountant's office.
Standartenfuehrer Vogt
SS (Obersturmfuehrer)
- A IV/1: Examination of treasury and accounts.
- A IV/2: Examination of army installations
(organized camps for troops, clothing factories, and others) [parenthesis in original].
- Office A V : Personnel office.
SS Brigadefuehrer Fanslau
(SS Standartenfuehrer)
- A V/1: Replacements, recruiting, discharges.
- A V/2: Promotions, assignments, transfers.
- A V/3: Training and schools.
- A V/4: Concentration camps: Replacements, releases, promotions, assignments, transfers, training (attached to division D). [Parenthesis in original.]

DIVISION B
TROOP ORGANIZATION

SS Gruppenfuehrer
(SS Brigadefuehrer) Generalmajor of
the Waffen SS Loerner
Tschentscher

Deputy: SS Standartenfuehrer (Prietzl)
 Adjutant and Company
 Commander: SS Obersturmfuehrer Manzenberger

Office B I : Food supplies.
 (SS Standartenfuehrer Prietzl)
 SS Standartenfuehrer Tschentscher

 B I/1: Planning and requisitioning of food supplies
 for men and horses.

 B I/2: Military camp-stores.

 B I/3: Testing of food, training of cooks, and schools
 for cooks.

Office B II : Clothing matters.
 SS Obersturmbannfuehrer Lechler

 B II/1: Clothing and equipment for enlisted men and
 officers.

 B II/2: SS clothing factories.

 B II/3: SS clothing funds.

Office B III : Billeting office.
 SS Obersturmbannfuehrer Koeberlein

 B III/1: Planning and procuring of housing equip-
 ment.

 B III/2: Camp quarters.

 B III/3: Maintenance and supply of motor vehicles for
 divisions A and B, including camp depots.

Office B IV : Raw materials and procurement.
 belongs to Office B II.
 (SS Obersturmbannfuehrer Weggel)

 (B IV/1: Raw materials (textiles and leather).)

 (B IV/2: Procurement of clothing.)

 (B IV/3: Office of price control.)

 (B IV/4: Transfer of orders.
 Procurement abroad.)
 Office B V Traffic matters
 SS Sturmbannfuehrer Scheide

[Pencilled arrow drawn to left margin.]

DIVISION C
 CONSTRUCTION MATTERS

SS Gruppenfuehrer

Chief: (SS Oberfuehrer) Dr. Ing. Kammler
 SS Obersturmbannfuehrer Schleif

Deputy: (SS Sturmbannfuehrer) Busching

Office C · I : General construction assignments.
 (SS Sturmbannfuehrer Sesemann)
 SS Obersturmbannfuehrer Schleif

C I/1: Constructions of the Waffen SS.
 C I/2: Constructions of the concentration camps and
 prisoner of war camps.
 C I/3: Constructions of the German police.
 C I/4: Constructions of the General SS.
 Office C II : Special construction tasks.
 SS *Obersturmbannfuehrer Kiefer*
 C II/1: Constructions for the storage of food and
 clothing.
 C II/2: Storage places for weapons, munitions, and
 signals.
 C II/3: Hospitals and infirmaries.
 C II/4: National political educational establishments
 and homes for children.
 C II/5: Housing welfare.
 C II/6: Economic and special constructions.
 Office C III : Technical specialist branches.
 SS *Sturmbannfuehrer (Wirtz) Floto*
 C III/1: Engineering.
 C III/2: Irrigation and draining.
 C III/3: Construction of machines.
 C III/4: Surveying.
 Office C IV : Special art projects.
 SS *Sturmbannfuehrer ((S) Blaschek)*
 Schneider
 C IV/1: Drafts and planning for urban construction.
 C IV/2: Landscape planning and interior decoration.
 Office C V : Central construction inspection office.
 SS *Obersturmbannfuehrer (Lenzer) Noell*
 C V/1: Supervision of the SS construction offices and
 projects.
 C V/2: Budgets and giving in accounts.
 C V/3: Office of raw materials constructions, and
 storage of construction material.
 C V/4: Motor vehicles for division C.
 Office C VI : Maintenance of construction and internal op-
 erational administration.
 SS *Standartenfuehrer: Eirenschmalz*
 C VI/1: Real estate of the Waffen SS.
 C VI/2: Real estate of the General SS.
 C VI/3: Office for preliminary examination in con-
 struction matters.

DIVISION D
CONCENTRATION CAMPS

Gruppenfuehrer

Chief: SS Brigadefuehrer and Generalmajor of the Waffen
SS: Gluecks

Deputy: SS (Obersturmbannfuehrer Liebehenschel)
Standartenfuehrer Maurer

Adjutant: SS Hauptsturmfuehrer Harbaum
Sturmbannfuehrer

Office D I : Central office.
SS Obersturmbannfuehrer *Hoess* (Liebe-
henschel)

D I/1: Matters concerning inmates.

D I/2: Intelligence and camp security measures,
watchdogs.

D I/3: Motor vehicles.

D I/4: Weapons and equipment.

D I/5: Training of the troops.

Office D II : Commitment of inmates for labor.
SS Standartenfuehrer
(SS Sturmbannfuehrer) Maurer

D II/1: Putting in work of inmates.

D II/2: Training of inmates.

D II/3: Statistics and accounts.

Office D III : Medical affairs and camp hygiene.
Standartenfuehrer
SS (Obersturmbannfuehrer) Dr. Lolling

D III/1: Medical and dental care of the SS.

D III/2: Medical and dental care of the inmates.

D III/3: Hygienic and sanitary measures in concen-
tration camps.

Office D IV : Concentration camp administration.
SS Sturmbannfuehrer Burger
(SS Obersturmbannfuehrer Kaindl)

D IV/1: Budget, finance, and pay system.

D IV/2: Food.

D IV/3: Clothing.

D IV/4: Quarters.

D IV/5: Legal, tax, and contract matters.

DIVISION W
ECONOMIC ENTERPRISES

Chief: SS Gruppenfuehrer Pohl
Deputy: SS Brigadefuehrer Loerner

- Office W I : Stones and soils. (Reich)
SS *Obersturmbannfuehrer* Mummenthey
(S)
- W I/1: German Earth and Stone Works Limited
[G.m.b.H.]
(4 big brickworks)
- W I/2: German Earth and Stone Works Limited
(6 quarries)
- W I/3: Porcelain Manufactory Allach Limited
Bohemia—Ceramic Works Joint-Stock Com-
pany.
“Porag”—Porcelain Radiators Limited.
Victoria—Porcelain, Joint-Stock Company.
- Office W II : Stones and soils (East).
SS *Obersturmbannfuehrer* Dr. Bobermin
Reserve Corps [d. Res.]
- W II/1: East-German Building Material Works Lim-
ited
(292 brickworks)
- W II/2: General trustee for building material produc-
tion sites in the districts of Styria and
Carinthia.
(18 establishments)
- W II/3: Russian Works.
- Office W III : Food manufactories.
SS *Hauptsturmfuehrer* Rabineck
(SS Oberfuehrer Moeckel) (*General SS*)
- W III/1: Sudetenquell Limited Heinr. Mattoni A.G.
[joint-stock company],
Apollinaris Brunnen joint-stock company,
and
Rheinahr Glass Works Limited.
- W III/2: Freudenthaler Getraenke Limited.
- W III/3: Deutsche Lebensmittel Limited.
- Office W IV : Timber works.
SS *Hauptsturmfuehrer* Opperbeck
(SS *Hauptsturmfuehrer* Dr. May (*General SS*))
- W IV/1: German Equipment Works [Deutsche Aus-
ruestungswerke] Ltd., (6 plants).

- W IV/2: Deutsche Heimgestaltung Ltd., (13 plants).
 W IV/3: Deutsche Meisterwerkstaetten Ltd., (1 plant).
 Office W V : Organization of agriculture, forestry, fisheries.
 SS *Obersturmbannfuehrer* Vogel, Reserve Corps
 W V/1: German experimental station for nutrition and food Limited (30 establishments).
 W V/2: Forestry administration (10 plants).
 W V/3: Fisheries administration (10 plants).
 Office W VI : Utilization of textiles and leather.
 SS *Obersturmbannfuehrer* Lechler
 W VI/1: Society for utilization of textiles and leather, Limited.
 Office W VII : Books and pictures.
 Sturmbannfuehrer
 SS (Hauptsturmfuehrer) Dr. Mischke, *Reserve Corps*
 W VII/1: Nordland Publishing House Limited.
 W VII/2: German picture service.
 Office W VIII : Special tasks.
 SS *Oberfuehrer* Dr. Salpeter
 (SS *Sturmbannfuehrer* Klein (*General SS*))
 W VIII/1: Society for care and promotion of monuments of German culture registered association [e.V.].
 W VIII/2: Externsteine-Stiftung Registered Association.
 King Henry Memorial Foundation Registered Association.
 Sanatoriums and convalescent homes.
 W VIII/3: Cultural monuments.

3. SELECTIONS FROM THE EVIDENCE OF THE DEFENSE

EXTRACTS FROM TESTIMONY OF THE DEFENDANT POHL *

DIRECT EXAMINATION

DR. SEIDL (counsel for defendant Pohl) : Your name is Oswald Pohl?

A. Yes.

Q. When and where were you born?

A. 13 May 1896 in Duisburg, Rhineland.

* Complete testimony is recorded in mimeographed transcript, 16, 19-23, 27-29 May; 2, 3 June, 25 August 1947; pp. 1253-2040; 6759-6786.

Q. Please describe briefly your origin and give the Court a description of your career up to your entry into the navy.

A. My parents came from Lower Silesia. I have traced my ancestors back to 1680. They are a colorful procession of wind-millers, water-millers, and village craftsmen. Both parents were orphaned when they were young. Therefore, my father who learned the profession of village locksmith migrated from the village at an early date. He wandered through Germany as a respectable artisan-apprentice, toward the West into the country between the Rhine and the Ruhr. His girl friend from his home town followed him there. They had 10 children and I am the fifth.

When, shortly after the First World War my father died, he had through his industry and efficiency become a respected first foreman in the August Thyssen Huette at Hamborn on the Rhine. Shortly before that, my mother had died.

My parents were extremely and happily married. We children never heard one evil or angry word. To this day, my years of childhood and youth in my parents' house where I was privileged to live until my twentieth year, stand before me like a glowing wreath of joy, peace, and happiness.

I myself attended, from the sixth to the twelfth year, the secondary school of my native town, and from my twelfth to twentieth year, I went to the Realgymnasium. There I left Easter 1912, having graduated, in order to enter the navy.

Q. What were your reasons for choosing the career of naval disbursing officer [Marine-Zahlmeister]?

A. The reason why I chose that career was the emptiness of my parents' purse. I would have liked to study, in the first place science, but unfortunately we did not have the means. When I looked around for a suitable career, I happened to come across the navy calendar and there I saw the prospect of a career in the Imperial Navy. I volunteered without ever having seen a warship or any other ship. I was accepted and in March 1912 I was a naval recruit in Wilhelmshaven.

Q. Tell us briefly of the career which you had in the navy.

A. After I joined, Easter 1912, I took the prescribed training which lasted four and one-half years. In the summer of 1917, I passed the main examination at Kiel and half a year later I was promoted to ensign and became a naval disbursing officer.

When the First World War ended, I was a disbursing officer of the Mine Sweeper Division "Flanders." After my return, after the dissolution of the Imperial Navy, I, first of all—my duty being on partial leave status—studied for one year in Kiel, because I believed that I would have to choose a new career, but in the beginning of 1920 I was taken over into the new navy and discon-

tinued my studies. I was then given the order to join the Third Naval Brigade, Free Corps Loewenfeld, and with Loewenfeld I went to Upper Silesia and to the Ruhr area. When I returned I was ordered aboard torpedo ships at irregular intervals.

In 1925, I was promoted to naval chief disbursing officer with the rank of a lieutenant [junior grade]. In 1934, when I left the navy, I was a naval staff disbursing officer with the rank of a lieutenant [navy].

Q. When did you for the first time contact the National Socialist movement and what were your reasons for doing so?

A. This was in the summer of 1923. For almost five years the German people had been carrying the chains of the Versailles Treaty. The inflation had reached its climax. Such property as still existed melted away and disappeared. Unemployment, which at that time had not yet reached the frightful figure of seven to eight million people however, cast its dark shadow ahead.

A few months previously, my homeland the Ruhr area, under definite violation of the so-called peace—the dictate of Versailles—had been occupied by the French and at Easter German workers were wallowing under the bullets of the French occupying forces in Essen before the factory gates.

My chief at the time invited me to accompany him to a meeting which had been advertized in a newspaper. It was called by the “League for the German People’s Right, Uve Jens Loernsen,” so-called after the Schleswig-Holstein [Slesvig] freedom fighter. I said that I would go. In the evening, both of us were near the harbor in a deserted street outside an inn which we would not have been allowed to enter in uniform. In the backroom we met 20 to 30 men. They were workers. You could see it from their clothes and their emaciated, embittered faces. There were also some white collar proletarians among them.

One of them made a speech and when at the end of that speech he asked for a discussion, I went up to the speaker’s pulpit. Why I spoke and what I said, I do not know anymore. Anyway I was applauded and was asked to join the league. These were the same people among whom I had spent my youth; with whom during the last three years at school I had had to spend the summer holidays as a factory worker; with whom in the morning at 6 o’clock I went out to work; with whom I had the midday meals; and with whom I went home at 6 o’clock in order to give private lessons from seven to nine, and thus, to add to and to make the money for my vacation. My heart, indeed, would have had to be of stone, and I would have had to have clay in my blood and veins if these people had not fascinated me. That is how I joined the Nationalist movement “Uve Jens Loernsen,”

and through that movement I eventually joined the National Socialist Party.

Q. When did you become a member of the NSDAP, and what were your reasons as an active official of the navy to join a political party?

A. I joined the NSDAP in August of 1926. The reasons I have described before. They were not connected with my professional interests; neither were they connected with my interests [to make progress] in society. They were human motives which were based on my attitude toward the social question.

Q. In 1929 you also joined the SA, did you not? What were your reasons for that step?

A. In 1929 I had been ordered to Swinemuende. The whole group of the party there to which I belonged consisted of thirty men at the most. The SA in the form in which it was known in Germany in the last years before the rise to power and especially after it, did not exist in Germany at that time. In 1929, we therefore understood the SA to mean those people who had sufficient courage to wear the brown shirt and to be in the front ranks and not to dodge in the rear, in other words to defend ourselves on the very spots at which we recruited.

Q. In the affidavit which you gave and signed on 17 March 1947, which has been submitted by the prosecution as Document NO-2343, Exhibit 3, you said, among other things, that in 1924 in Kiel you were appointed by the Nationalist Social Bloc [Voelkisch-Sozialer Block] as a candidate for the municipal elections. What were your reasons at that time for doing active political work in public life?

A. The above-mentioned League for German Right, Uve Jens Loernsen did not take part in the elections. But the so-called National movements joined in a so-called Nationalist Social bloc [Voelkisch-Sozialer Block] which in Kiel, was under the leadership of Admiral Rosenberg who knew me because I served under him during the war, and he knew that I followed those ideas. He asked me to have my name placed on the candidate list, which I did.

Q. Before the National Socialist Party came into power in 1933, you were already a leader of a local group of the NSDAP and you were active in the SA. What were your reasons as an active disbursing officer of the navy to work actively in political life?

A. These were the same reasons which I described before. In my political activities I did not take any consideration for my professional activities because I was too much moved by the human side.

Q. By 1934 you were a disbursing officer in the German navy.

In that year, however, you left the navy and joined the SS. What were your reasons for giving up your career in the navy and devoting yourself to administrative affairs in the SS?

A. After the First World War—especially after 1920–21—after the organization of the new German navy, strong reformist movements took place in the field of naval administration. At that time I took a considerable part in this work. This work aimed at more or less modernizing the whole administration to take it out of the old routine, using the experiences which had been gained during the war. This work at that time did not and could not lead to any success because here again in this very small circle—just as in the whole of the German nation—everybody just pursued his own interests, everybody fought everybody else, and thus no success seemed possible. When, therefore, in January, 1934, Himmler—after having asked me since May 1933 to join the Reich leadership of the SS [Reichsfuehrung SS]—pointed out that he, by order of Hitler, and within the framework of the SS, wished to form units based on the army model—they were called “political units” later, “Special Purpose Troops,” [politische Bereitschaften, spaeter Verfuegungstruppen] and they followed the example of the army, even in administrative matters—and that if I should accept he would give me something to do in the building up of this administration; that in fact he would give me a completely free hand. I saw a wonderful opportunity to carry out the ideas which were already expressed in the reformist tendencies which I described before. They were my own ideas. I accepted the offer.

Q. On 1 February 1934, you therefore took over the so-called administrative office SS as the chief, which was an office within the SS Main Office. Who was your superior at that time? What were your tasks within the SS Main Office?

A. My superior, an office chief of the SS Main Office, was at that time Gruppenfuehrer Seidel-Dittmarsch who a few weeks after I joined the office died, and was replaced by Gruppenfuehrer Ditsche. The administrative office which I had under me was an office within the SS Main Office. Its tasks at that time were restricted to the field of administration within the General SS; its center was the FM [Foerdernde Mitglieder] Administration. That is, administration of the money of the members who supported the SS with funds. Other tasks were to develop an administrative organization; that is to say, to build up administrative agencies for all units of the General SS within the Reich, and to train administrative personnel. These were the main tasks.

Q. Now, as the head of the administrative office of the SS, how

did your activity develop up to April 1939, and what ranks did you hold during that period within the SS?

A. As early as 1934, when I joined this organization the first "political units" were formed. These were men in uniform stationed in barracks who were recruited from the General SS and whose sole task really was to take over guard duties at the various political party agencies in Munich. In 1935, roughly, the first units of the SS Special Purpose Troops who were the predecessors of the Waffen SS were established. Even before, that is just after the seizure of power, the Leibstandarte Adolf Hitler was formed. But this unit, from the point of view of administration and organization, went its own way for years. The first units of the Special Purpose Troops were the "Standarte Deutschland", "Germania" and, I believe, "Reich".

Apart from that there were a pioneer unit and a communications unit. That, roughly, was the development up to 1939. I myself, in the autumn of 1934, was promoted to Oberfuehrer; three years later, in 1937, I became a Brigadefuehrer; and in April 1939 I became Gruppenfuehrer.

Q. In April of 1939, as far as we know so far, the administrative office SS was renamed "Office for Budget and Buildings" and, "Administrative Office SS." Did you remain chief of those two offices, and did this reorganization result in any changes within your tasks?

A. No. I should make a small correction, first of all. During my own interrogation I made a mistake and only when I studied the documents did I really form a clear picture. There was never an independent office "budget and buildings," but as early as 1939 the former administrative office SS was raised to the status of a Main Office. It was called, "Main Office Budget and Buildings," and, "Main Office Administration and Economy". And in the Main Office "Budget and Buildings" there were the offices or Aemter "office for budget", and "office for buildings". Now, as far as I was concerned, nothing really changed within the sphere of my tasks except for the fact that the work increased somewhat. But otherwise these were purely administrative matters.

Q. In 1939 you were appointed Ministerialdirektor. What brought about this appointment, and what were your tasks within that agency?

A. When I was appointed a Ministerialdirektor it was only an emergency solution, really. As I described before, up to that year the special units had grown into a considerable fighting force, but the money which the Reich put at their disposal was not very considerable. And there was nobody who, on the basis of being a civil servant, would have been in a position to dispose

of the Reich funds. Somebody, therefore, had to be given authority because, as a Gruppenfuehrer, I was only in the pay of the Party and not in the pay of the Reich. But, as on the other hand, in the special units of the SS there was no position which would have been equivalent to my rank, the emergency solution was resorted to and I was appointed Ministerialdirektor. The result was that from then on I could obtain administrative authority from the Reich on the strength of which, within my activities for these special units, I was able to act as a representative of the Reich.

Up to that time, unless it was a matter of funds coming from the regular budget, I had to obtain the authority from case to case from the Reich Minister of Finance or the Reich Minister of the Interior.

Q. Now in 1940, according to your description so far, both offices were made Main Offices. What were the reasons for that? Why were they raised within the organization of the SS, and did that bring about any changes within your own sphere of work?

A. The reason why the names were changed was brought about by practical reasons. The fact that one and the same thing was called two different names led to constant misunderstandings in the offices out in the field. People out there did not see why there should be any differences or different names. Therefore, there was constant confusion. So, therefore, what was done was to get rid of these double names and replace them by the collective name of SS Wirtschafts- und Verwaltungshauptamt, WVHA. That was done also for the reason that the Reich tasks had meanwhile strongly outnumbered the Party tasks.

Q. The prosecution has submitted the plan of those two organizations. Do you know Document NO-620? Does that plan correctly represent the two organizations?

A. Yes. It does.

Q. It is rather striking, on this plan, that under [Main Office], "Budget and Buildings" there is the word "Reich" in brackets, and under the name [Main Office] "Economy and Administration" ["Administration and Economy"] there is the word "Party". What is the explanation for this?

A. When the Special Purpose Units were being formed, money came from the Reich to the SS. Of course, this was intended mainly for central administration of this Main Office or Administrative Main Office SS, or the organization as it says on the chart. Now, of course, the Reich wished to have a clear separation within those funds which it put at their disposal; the Reich wanted to have the Reich fund and the Party fund clearly separated. For

that reason, this division into two parts was carried out, and therefore we have "Reich" on the one hand and "Party" on the other. The Main Office Budget and Building received Reich funds, the Main Office Administration and Economy received Party funds. However, they were both housed in the same building and were both under my direction.

Q. On 1 February 1942, the two Main Offices, Administration and Economy, and Budget and Buildings, were united in a single Main Office and were renamed SS Economic Administrative Main Office, WVHA. What were the reasons for this reorganization, and did this bring about any change in your sphere of work?

A. As I said before as to what were the reasons, it was not a reorganization really, it was really a renaming. The firm, so to speak, was renamed for practical reasons because all the other names led to constant misunderstandings with agencies in the Reich. For that reason, as I emphasized before—as in the Main Office there were only, or almost only, Reich funds, and the General SS had become very small and insignificant—we renamed it the WVHA for these practical reasons.

Q. Now, where was this WVHA located?

A. It was located in Berlin-Lichterfelde, Unter den Eichen.

Q. How many people worked in the WVHA, of which you were the chief?

A. When it was renamed in March of 1942, there were about 1,500 or 1,700 employees of whom about 1,500 worked in the building, and that figure was maintained up to the end of 1943. Then, because of the fact that we had to send all of our men to the front at the end of 1944 and the beginning of 1945, there were about 600 men working there.

Q. The work of the General SS decreased considerably during the war. What were the functions to which the WVHA limited itself at the end? What agencies within the WVHA did the work after the outbreak of the war? Where was that agency, and how big was it?

A. As a result of the strong decrease in number of the General SS during the war the administrative tasks for the General SS, of course, also decreased. Later on they became so insignificant that they could be looked after from a small office in Munich, where about 15 or 20 men worked. The tasks of that agency were confined to the carrying out of the disbursing of the few people who worked full time for the General SS, maintenance of various property matters and, above all, the reorganization of a new payroll which of all things the Party considered necessary at the time. Then, there were various social welfare tasks connected with it.

Q. When war broke out, the tasks which the WVHA had to perform for the Waffen SS became bigger, and the WVHA became the administrative center of the Waffen SS and General SS. Is it correct that the WVHA, or you yourself as its chief on the basis of a written authority of the Reich Minister of Finance, acted in the matters of the Waffen SS? And, as far as the General SS was concerned, did you act because the Reich Treasurer of the NSDAP had appointed you paymaster for the Party?

A. Yes. That is correct. At first I was given a Reich authority. At the beginning it concerned 100,000 marks, and later on it was increased to one million, and later on still more. The Party was not very generous. As far as the Party was concerned, I was entrusted only with ten thousand marks.

Q. What other agency of the German Wehrmacht could be compared with the WVHA as it was organized in February 1942?

A. One could compare it with the army administrative office. What that office was for the army, the WVHA was for the Waffen SS.

Q. Is it correct to say that the army administrative office within the OKW also was in charge of economic enterprises, which were far more extensive than those of the WVHA?

A. Yes. That is correct. Within the army administrative office also, there were large economic enterprises which I do not know in detail. However, I know a few names, for instance, Montan, A. G. which in itself was an enterprise where hundreds of millions were invested. I believe they had a bank of their own, but I am not quite sure of all the details.

Q. Who invented the name "WVHA", and what was aimed at with that name? What was the idea of that name?

A. The name "WVHA" was coined by Himmler. Himmler had ideas of his own here, and in some instances they revealed reformist tendencies, which he also had in various other fields. It was his desire to have, as an administrative official, a passive civil servant type of man who, so to speak, sat on the purse which he had to administer and who would issue funds from that purse according to a plan. Himmler's idea was that even where the financial policy was concerned the administrative official should try to economize just like a good housewife should do the best for the troops, should not simply follow various contracts and take the easy way, but he should administer the money cheaply, intelligently, and take as much advantage from the funds as possible.

That is the explanation why, later on, when these officials were introduced into the WVHA, he did not give them the name "Intendant" [chief administrative officer] which the army would give

these officials; he simply called them "economists," and the name was to remind the official that he had to economize. From that idea the name "WVHA", "Economic Office," was coined. But even that was not considered the final name. Later on, perhaps, it would simply have been called "Economic Main Office" without any administrative tasks.

* * * * *

Q. Witness, in speaking of Hitler right now I should ask you how often did you see Hitler personally within your field of tasks?

A. I stood before Hitler personally, twice in my life. On one occasion in 1939, I was introduced to him after being appointed Ministerialdirektor, and in July 1944, I saw him together with Frank, that is the defendant Frank, here. Then I was ordered to carry out the reform of the Wehrmacht administration. In both cases Himmler was present and introduced. Hitler then approached me and shook hands with me. That was all.

* * * * *

Q. I shall now turn to some questions dealing with the legal position of the WVHA. Was this department an authority of the Reich or of the National Socialist Party?

A. The WVHA was a department of the Reich.

Q. From whom did you and the chiefs of the divisions and offices receive your salaries?

A. I myself, as well as the others, was paid by the Reich.

Q. How much did you receive as the chief of the WVHA at various times?

A. When I was transferred to the SS I started with 600 marks per month, and then I rose according to my promotions to the corresponding salaries of the ranks I held, reaching the top, a general's rank. This was paid together with the following special payments and reached eventually at the very end 2500, the net amount of 2700 marks and it consisted of the following: My general salary or pay, about 1400 marks; 300 marks additional allowances as department chief; 375 marks paid to me as Plenipotentiary for the German Red Cross; 300 marks were paid to me as the Reich treasurer and administrator of the NSDAP; and for a certain period I had an allowance, quarters allowance, of 400 marks. That was my total income from pay.

PRESIDING JUDGE TOMS: Is this per month? Each month?

A. Yes. Per month.

DR. SEIDL: Mr. President, I shall now turn to discussing a number of documents submitted by the prosecution. In order to facilitate the work of this Tribunal I shall quote the pages on which these documents can be found in both the German and English document books. The first document to which I shall

refer is Document NO-019(a), on page 43 in the German document book 2, which can be found on page 32 of the English document book. It is a letter from the Reich Leader SS Himmler to the head of the SS Main Sector Weichsel [Vistula] of 15 December 1939 which the prosecution has submitted as Exhibit 24. It is stated at the end of the letter, "Concentration camps can only be constructed with my permission. Concentration camps now in existence are immediately subject to the jurisdiction of the Inspector of Concentration Camps, who is at present SS Oberfuehrer Gluecks. The business of the economic business of this is the responsibility of SS Obergruppenfuehrer Pohl." End of quotation.

DR. SEIDL: Let me ask you then, did you already in 1939, concern yourself with allocation of labor in concentration camps, or what does the statement mean with regard to the care of economic considerations for the allocation of labor?

A. In 1939 I was not working yet on the allocation of labor in concentration camps. This statement here made by the Reich Leader Himmler is due to the fact that approximately one year before, at the end of 1938, the workshops which had been in existence up to then in concentration camps, due to their increase in size, had been transferred as economic enterprises to the supervision of the WVHA. And for the first time I came into contact with these business enterprises in concentration camps. Here, Himmler is referring to this procedure he had given me, the task that at Stutthof, which is to say at the time I should ascertain whether the economic installation which was there, would be suitable for the employment of prisoners. This was my task in the case of Stutthof.

Q. On 21 February 1940, the Inspector of Concentration Camps, SS Oberfuehrer Gluecks, had written a report to Reich Leader SS Himmler about inspections of camps. A copy of this report was passed on to you, and the prosecution has submitted it as Exhibit 29. It is Document NO-034, on page 49 of German document book No. 2, page 38 in the English version. This report shows that the taking over of the camp at Stutthof near Danzig, as a concentration camp of the State, was approved by you. I want to ask you what reasons you had for doing so.

A. In connection with all such questions I always acted as the expert concerned, and I investigated the question of whether the installation might be suitable for the employment of prisoners. My answer had to be yes or no; and in this particular case the answer was in the affirmative. The reporter called it Befuerwortung [approval].

Q. Some of this document is a file note of Sturmbannfuehrer

Maurer dated 17 December 1941, and the prosecution submitted it. Statements contained therein or, rather, was this a decision which you, yourself, had made, or did you merely wish to ascertain, the consequences of a decision made by Himmler? I want to draw your attention to figure [paragraph] 1 of this report in this connection, dealing with an inspection carried out on 10 December 1941. (NO-2147, Pros. Ex. 30.) It states, "The camp is very clean and suitably installed. After the Reich Leader SS had ordered the taking over of the plant as a model concentration camp suitable for the accommodation of approximately 25,000 Russian prisoners of war, I considered the extension of existing workshops and the taking over by the German Equipment G.m.b.H., as possible."

A. In this case, I only dealt with the consequences of a decision made by Himmler which I ascertained because the actual transfer or foundation of a concentration camp could not be ordered by me.

Q. As Exhibit 37 the prosecution has presented Document NO-495. The subject is a letter from the Reich Leader SS dated 19 January 1942, which, however, you yourself have signed. It is document book 2, page 56 of the English version. You have already described the development of the WVHA which at the beginning of January 1942 came to some sort of conclusion as the budget and buildings department, and the administrative department of the SS were dissolved, and the tasks of these three departments were transferred to the WVHA effective 1 February 1942. This circular letter states as follows: "In this Main Office, all economic, administrative, and construction matters of the Reich Leader SS will be dealt with on a ministerial level." What is the significance of this statement "ministerial level?"

A. It was a realization of a goal. Himmler apparently had the idea that the WVHA might one day represent for him the centralized department for all matters to be dealt with on a ministerial level. That is to say, in the first place, for his entire budget as Reich Leader SS, and the chief of the German police; and in the second place, for all construction matters. This centralization was never achieved. The reason for this was that, for instance, men like Daluge and Heydrich refused to collaborate. They refused to give up their independent budgets. Both had, in fact, their own ministerial counsellors in their chief departments to which they would address themselves and who were responsible for the budget of their construction matters of their Main departments. But other construction—or, rather, other main departments too, as time went on—went back to an independent basis; as, for instance, the Main department of the Reich Commissioner for the Strengthening of Germanism had its own construction organiza-

tion. These constructional matters too, did not go through the WVHA. In fact this statement here is the representation of an aim which was never achieved.

* * * * *

Q. The first Inspector of Concentration Camps, Eicke, then joined the army in 1939 to 1940, went to the front, and was killed. Who was his successor as Inspector of Concentration Camps?

A. After Eicke had left, Obergruppenfuehrer Heissmeyer, as Inspector of Concentration Camps and SS Death Head units took care of these camps. However, I do not know for how long. Then the concentration camps were incorporated into the Fuehrungshauptamt. Under these two authorities, Gluecks, as inspector of Concentration Camps then carried out his activity.

Q. Could you give us a short description of the personality of SS Brigadefuehrer Gluecks?

A. Gluecks was approximately 50 or so. He was an easy going civil servant. He was sick, and he took care of most of his official matters from his office. He was hardly more than average. Only from 1942 on, when I was charged with labor allocation, was I able to make him deal more with matters outside of Oranienburg, to make trips, and to control the camps. He did so too, but I had the impression that prior to that time, he did not quite deal with these matters as he should have.

Q. What did you yourself have to do with concentration camps until the spring of 1942, and what exactly was your task as chief of the WVHA in connection with these concentration camps?

A. Until the taking over of the economic enterprises in 1938-39 I dealt with these workshops of the concentration camps; as chief of the WVHA I did not have anything more to do with the concentration camps as such, the same with all the other units of the Waffen SS. Now, in particular, all budget matters were dealt with in our organization. As such there were no other activities apart from these matters.

Q. What other agencies of the Reich, the Party, etc., had certain functions, like you had, in connection with these concentration camps?

A. The Reich Ministry of the Interior is the first one I should mention here. The Reich Ministry of the Interior after 1941 had to be consulted first in all construction matters, because these construction matters up to that year were under the Reich construction administration within the Reich Ministry of the Interior. Only after Kammler joined the WVHA, the authority was issued from the Reich Ministry of Interior to the WVHA to also deal with construction matters independently. Furthermore one could perhaps mention the Reichsrechnungshof, which up to a certain

time was in charge of auditing all accounts, also those of concentration camps.

Q. In March 1942, the Reich Leader SS Himmler told you that he had made up his mind to put Brigadefuehrer Gluecks and consequently the Inspectorate of Concentration Camps under your orders. What were the reasons that Himmler gave you for his decision?

A. When I was called up to Himmler's place, at that time he told me approximately the following: In the Fuehrer's headquarters, a meeting had taken place which dealt with the most important problem of the time, namely, with the labor question in the armament industry. That question at the time, that is, the moment the war had reached its peak, had become the most important. He said, and the Fuehrer would put a man in charge who had the general power of attorney to take care of this matter for the entire Reich and all enterprises. Gauleiter Sauckel was being chosen for that position. He was to become the Plenipotentiary General for Labor Allocation. During this meeting, the question that all concentration camp inmates be used for that purpose was also discussed. Thus, a new and particularly important task arose for the concentration camps. He, Himmler, was not under the impression that Gluecks could cope with the task and, furthermore, it was primarily an economical measure. He had no one else for that task than myself, as I was his economic expert and, therefore, he made the decision to assign me to this task and to incorporate the concentration camps into the WVHA so that Gluecks could be under my supervision.

Q. What did you answer Himmler at the time?

A. With reference to this new change I was surprised and perturbed because the WVHA was one of the biggest Main Offices of the Reich Leadership SS. I had to cope with such a great field of tasks that it took all my energy. I drew Himmler's attention to that fact in particular, and I told him that up to that date the Inspectorate of Concentration Camps was being taken care of by two high leaders who had no other task and that they could therefore put all their energy into the administration of these concentration camps, and for that reason it would be impossible to assign me to such a task, I who was already in charge of a Main Office, so that I would receive an additional task on top of all the others.

Apart from that, I thought it very difficult, if not impossible, to set up an organization which was built up primarily in a police and military manner to be taken care of by an administrative central office of all things. I, therefore, proposed to him that he transfer the Inspectorate of the Concentration Camps where it belonged logically, namely, to the RSHA. However, he did not

follow my suggestion because he saw the preeminent economic importance of these camps, believing that neither the RSHA nor any other Main Office would represent these economic views sufficiently.

Finally he did comply with my wish to the effect that he thought I should only take care of the labor assignments and that at least in that field of tasks in the interests of the entire armament, I should see to it that there would be no disorder. He wanted to, and he promised me that at the latest, at the end of the war, he would find a final solution, in other words, that he would perhaps transfer the Inspectorate of Concentration Camps to the RSHA.

In spite of my objections to that, I could not argue with him, because I had also recognized the importance of the whole task, and I therefore agreed to take over that task.

* * * * *

Q. Witness, could you tell this Tribunal at what time, according to your recollection, these camps were released from the competence of the WVHA and put in the charge of the Higher SS and Police Leaders; that is, for instance, in the case of Stutthof, near Danzig?

A. I cannot recall the exact date. However, I can give you the approximate dates. In reference to Stutthof near Danzig, I am sure, it was around October 1944.

Q. Then how was it with reference to the case of Auschwitz and Gross-Rosen?

A. I believe that started around January 1945. The dates I am giving are those of the evacuation. Of course, preparatory measures which had to be carried out by the competent Higher SS and Police Leaders should be included in that period. The date on which the camp was taken over by the Higher SS and Police Leader is therefore about two or three months prior to the date of evacuation because of the fact that there were quite a number of preparatory measures to be taken care of, and Auschwitz and Gross-Rosen were evacuated in January 1945.

Q. The other camps later?

A. Yes. Natzweiler in the West was also pretty early; it was in the fall of 1944. But I cannot recall the other dates.

* * * * *

Q. I now come to the position of the so-called staff W which existed within division W. What were its tasks and in how much did it have the authority to issue orders independently?

A. The staff W was the instrument which I used as the sole business manager of DWB when I supervised these enterprises. Its members were experts of whom each one had a special expert

field under him. One would work on the legal aspect; another one on financial matters; the third one, auditing; fifth one, banking and account questions, statistics, and so forth. And I always used the various experts depending on what question I was working on at the time. None of these experts had the authority to issue orders independently.

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EXTRACTS FROM TESTIMONY OF DEFENDANT GEORG LOERNER *

DR. HAENSEL: The questions which I want to ask the witness, Georg Loerner, are threefold. The first part is: Who are you, how did you live. The second part is, what did you do? And the third part is, what have you not done? This trinity occurred to me when I think of the old dogmatism about the *contritio*, the *confessio* and the *satisfactio*. *Contritio* has been translated by Martin Luther and is called *Zerknirschung* in German. That began with the surrender. The *confessio* is the matter itself, and it will be dealt with during the next days, and a *satisfactio* is, according to Luther's translation, a purification.

DIRECT EXAMINATION

DR. HAENSEL (counsel for defendant Georg Loerner): Count 1. Georg Loerner, give us your full name and the date of your birth.

A. My name is Georg Loerner, and I was born on 17 February 1899 in Munich.

Q. Could you tell the Court something about your parents?

A. My parents were good bourgeois. My father had a large construction engineering shop. We were six children and this shop supported us quite well.

Q. And the first misery of your life was the death of your father, was it not? When was that?

A. My father died on 21 February 1910.

Q. How old were you at that time?

A. I was eleven.

Q. And what did you do?

A. I was a pupil in the fifth class of the elementary school, and I was just about to go to the secondary school.

Q. What influence did the death of your father have on you, on your whole family, and on your further life?

A. The death of my father hampered the development of our life, our finances deteriorated, and the family had to live in lower

* Complete testimony is recorded in mimeographed transcript, 17-20 June, 4 September 1947; pp. 2916-3151; 7423-7424.

circumstances. Then the planned studies of my brother and my own studies could no longer be carried out. Therefore, after the sixth year I left the secondary school. In 1916 I entered the banking house of Sinn and Company.

Q. Sinn and Company, was this a Jewish firm?

A. Yes.

Q. You had no doubts about entering a Jewish firm?

A. No.

Q. How was it during the First World War? What influence did that have on you?

A. In June 1917 I was drafted into the infantry. After the normal basic training and after finishing the rifle course and the heavy machine gun training in January or February 1918 I came to the front, the Western front. There I took part in the fight, hard fighting, and on 10 July 1918, two days before I was to enter an officer's training course, during combat near Reims, I was wounded.

Q. Did this wound have any effect on your physical welfare?

A. Yes. In 1918 I was discharged as a veteran with an 80 per cent disability, a wounded stiff leg and a serious heart ailment.

Q. What did you do after the war?

A. After the war I began studies at the commercial training school for economy from 1919 until 1921. In 1921 I passed my examinations and became a certified merchant, a Diplomkaufmann, merchant with a diploma. At the same time I entered the Munich branch of the Commerz und Privatbank, the Commerce and Private Bank, and on 21 January 1923 I entered the enterprise of my brother as commercial manager.

Q. Is that your brother Hans who is also one of the defendants?

A. Yes, my third brother, Peter died already in 1901.

Q. How was your collaboration generally?

A. It was generally very good. We understood each other well and for this reason we agreed that I should enter his firm.

Q. What was the development of this firm?

A. The firm, after the end of the inflation, had to be started again from the beginning. From that time, however, it developed satisfactorily, but of course, during the depression in the years 1928 and 1929 it was impeded, and through the bankruptcy of two large debtors in the spring of 1930, it had to be liquidated.

Q. Did that happen often?

A. At that time it happened very often indeed.

Q. What happened after this liquidation?

A. After this I had no work at all as my wound in my leg gave me considerable trouble and at this point I had to have an operation which was the tenth operation. The chief of the surgical

clinic in Munich, Geheimrat Lexner, operated on me himself and succeeded in making my leg flexible again.

Q. In this time of your involuntary leisure did you come to think about political questions? Were you a member of any Party at all?

A. Yes. In 1928 I joined the Bayerische Volkspartei, the Bavarian People's Party. In 1931 I left the party and on 1 November 1931, I joined the National Socialist Party.

Q. Did you at that time also join the SS?

A. Yes. I did. In spite of my efforts, I could not find a job. Then, in June 1932, a friend of mine, Max Hums, who had a full-time job with the SS, came to me and offered me a job in the office of SS sector I. I accepted this offer gladly. At that time, I had heard or seen hardly anything of the SS. During this activity I became acquainted with the ideals and the aims of the SS. I became very enthusiastic about them, and I applied for membership in the SS which was not very easy at that time as I was limping and the SS only accepted completely healthy people, but my application was accepted, and approximately in November 1932, I became a voluntary member of the SS.

Q. At that time were you enthusiastic about military matters, did you like the militarism in the SS?

A. No. I was never a militarist, since I had been in war and sustained a series of wounds, and I had enough of it. I was mainly interested in the construction work from nothing.

* * * * *

Q. Well, then let's now leave your curriculum vitae for the time, and let us turn to your field of work. Tell the Tribunal briefly what positions you held before 1939.

A. In May 1933 I was transferred to the administrative office of the SS. I was employed first in the FM department. In December 1939 [sic] I received from my chief, Oberfuehrer Schneider, the order to open a clothing department.

Q. Were you transferred then into the Special Purpose Troops?

A. Yes. On 2 April 1936, I was officially transferred to the Special Purpose Troops as Obersturmfuehrer. I signed the contract to which I pledged myself to serve the Reich until I was 45 years of age.

Q. Were you an active leader of the Sturm [approximate size of a company], or what did you do in the Special Purpose Troops?

A. As I said before, I was only active in the administration.

Q. What did this task consist of, administration of the Death Head units?

A. Yes.

Q. What else?

A. Clothing. First of all there was clothing for the Special Purpose Troops which had to be supplied and put at their disposal. From 1936 on the clothing of the Death Head units as well as the clothing of the inmates of the concentration camps was added.

Q. Witness, you say that you dealt also with clothing for the inmates of the concentration camps?

A. Yes.

Q. Do we have to understand by that you supplied it to every individual inmate, or how was it?

A. No. The Inspectorate of Concentration Camps sent us its report yearly, or every half year. These supplies were bought and put at the disposal of the concentration camps. The individual camps were responsible for the clothing of the individual inmates.

Q. We have now arrived at the beginning of 1939. What change did this year bring about on account of the war? What change did it bring about for you?

A. In May 1939, I was transferred to Berlin, and I was put in charge of office I of budget and buildings.

Q. Could you tell us in order to clarify this how this SS office Budget and Buildings was organized?

A. The office budget and buildings consisted of two offices: office I, budget, and office II, buildings.

Q. That is where the strange name is derived from. Was office I subordinated to you?

A. Yes. I was its chief.

* * * * *

Q. If we wanted to have a title for [division] B [of the WVHA], it would be the much-used term "troop administration". Do you think that is correct?

A. That designation is not really correct. It came from Himmler's fondness for the word "administration," which we always came across within our organization. A much better designation for division B would have been "supply organization", because the main task of division B was the supply of goods.

Q. Now, what did you supply? Let us talk about the various offices into which your division B was subdivided at the various periods of time.

A. Division B consisted of these offices: B I, food; B II, clothing; B III, quarters and accommodation; B IV, war materials and deliveries; B V, transportation. Office B IV was dissolved on 1 January 1944, as its task had completely vanished inasmuch as the highest agencies had taken over all supply problems. The remaining tasks were allocated to offices B I and II. Office B V was established only on 1 October 1942.

Q. Now, let us talk about B I. What were B I's tasks?

A. B I had the task of looking after the feeding of the Waffen SS and the regular police units in the Reich. The feeding of units at the front was done by the army organizations.

* * * * *

Q. We were talking about food and the warehouses. Who was supplied by your warehouses?

A. As I said before, Waffen SS units, including guard personnel in concentration camps and the regular police who lived in barracks in the zone of interior [Heimatkriegsgebiet].

Q. Now, the question must be raised: who was not supplied by them?

A. We did not supply from those warehouses the front line units of the Waffen SS and the inmates of concentration camps.

* * * * *

Q. In conclusion I would like to ask you to please tell us if you ever received a special order concerning the food of the concentration camp inmates? Did you ever have any order of any kind and if you were interpolated in the framework of responsibility?

A. At no time during my entire activity in the WVHA did I receive an order from Pohl or from Himmler that I should deal with the food for the inmates. Therefore, I never felt responsible for the food of the inmates, and that is the reason why I never dealt with it, nor did I ever receive any complaints, possibly for the simple reason that I had nothing to do with those things.

Q. May I remind you, Witness, of the fact or particularly of Document NO-2736 which is in the last document book number 22, page 16. It is an affidavit by Pohl. Pohl states in that affidavit—first of all, may I ask you, do you have that affidavit?

A. No. I don't have it, but I can recall it.

Q. Very well then, I shall give it to you, 18 and 19, and will you look at that short passage there please? Just one moment please. Will you wait until the Tribunal has a copy.

PRESIDING JUDGE TOMS: The number of the document is 1923?

DR. HAENSEL: No. The number 2736, your Honor, 2736.

MR. ROBBINS: It is on page 11.

DEFENDANT GEORG LOERNER: It is Exhibit 525.

DR. HAENSEL: I assume that it is the third page, paragraphs 18 and 19.

Pohl states: "As I was very interested in the fact that the inmates be kept alive in order to use them in large numbers as workers, I often had discussions with Loerner in order to make sure that the concentration camp inmates were properly fed and clothed." I would like to add that I never did have any such conferences about the food with Pohl. I did have conferences, and that very often, about the clothing. However, not about the food.

He either gets me mixed up with Schenk, or else he is mistaken.

Q. Office B I which we have mentioned here all the time. Did that remain in Amtsgruppe B until the end of the war?

A. B I? Due to the simplification of the administration procedure in 1944-45, after long preparations on 31 March 1945, the entire food problem of the Waffen SS was turned over to the High Command of the Army. All warehouses were placed under the army administrative office. That is how the task of office B I was completed, and after a few weeks it was to be dissolved. This official dissolution did not take place due to the collapse of the German Reich. However, on 31 March 1945, all food matters had been transferred from the WVHA to the High Command of the Army.

Q. By this transfer of the tasks of B I to the OKH [High Command of the Army], did anything at all change in the food of the concentration camps?

A. No. Nothing at all, because B I had nothing to do with it and therefore, nothing had to change when the transfer of the Waffen SS food to the OKH was carried out.

PRESIDING JUDGE TOMS: What was the date in 1945 that the food administration was transferred to the OKH?

DEFENDANT GEORG LOERNER: It was 31 March 1945, your Honor.

PRESIDING JUDGE TOMS: The translation came through that the reorganization was 1940. I think that was a mistake in translation.

DEFENDANT GEORG LOERNER: I said 1944.

PRESIDING JUDGE TOMS: Yes. You said '44, but the translator said 1940. That correction should appear.

DR. HAENSEL: Thus, the food complex which we have been dealing with here all the time is finished, and I shall now speak about the clothing. Would you tell us in a few brief terms how the development of the clothing department in the SS was? That is your special field, is it not?

A. Yes. That was my special task in the SS. As I already stated at the beginning of my interrogation, I was ordered to set up a clothing department in December 1933. The establishment of that clothing department was necessary first of all in order to clothe the so-called political units [Bereitschaften] the predecessors of the SS Special Purpose Troops. That particular clothing department at the time, which in 1935 became a main office, had the task to clothe the SS Special Purpose Troops. Also in '34 and '35 it had the task to clothe the auxiliary forces. They were members of the General SS who were used to reinforce the individual custom offices. That is the reason why under V/3, in the

organizational chart, it says that V/3 had to carry out the clothing of the General SS. That is not correct. The clothing of the General SS was exclusively carried out by the Reich Quartermaster Office of the NSDAP. That had been contained in the Law for the Protection of the Party and the State, which appeared in 1934. Even the black parade uniform of the SS Special Purpose Troops had to be drawn from the Reich Quartermaster Office, because the chief of the Reich Quartermaster Office was of the opinion that the black uniform was a Party uniform. In 1936 we received the additional task to clothe the SS Death Head units and also to deliver the clothes to the inmates. Apart from that we had to set up the clothing treasury [Kleiderkasse] of the SS in that particular department, and in 1938 the clothing factory was established, and as of May 1939 the main department I/3 in office I of the Main Office Budget and Buildings took over everything.

At the beginning of the war the centralization of all the raw material administration took place, and requisitions could only be carried out in agreement with the OKH for the Waffen SS and with the Reich Ministry of Economics for the concentration camps.

On 1 February 1942, when the WVHA was established, Amt or office B II received the procurement of clothing, while office B IV had to secure the raw material and had to supervise the manufacture of the clothes. That, briefly stated, was the establishment of the clothing department of the SS.

Q. In other words, we have now proceeded with Amt or office B II?

A. Yes.

Q. Please tell us the field of task of B II.

A. Office B II had to secure, procure, and place at the disposal of whoever was concerned with clothing and equipment of the Waffen SS, including the field units, and also the clothing for the inmates. When I say equipment for the Waffen SS I mean the personal equipment of the men, that is to say, for instance, musette bag, bottle, mess kit, and various other things. The equipment of the army as such, that is to say guns, etc., was not the task of Office B II.

Q. Let us try to explain this clearly as we did with the example of beans, the clothing question. Let me ask you now, first of all, where was it that the raw material that was needed for the clothing and the equipment of the Waffen SS, were procured?

A. The raw material was requisitioned with the OKH. That was the military field for the raw material administration.

Q. That was the Waffen SS. The second question: Where was

it the raw material was requisitioned for the clothing for the concentration camp inmates?

A. That raw material was requisitioned with the Reich Ministry of Economics and as of the end of 1943 or 1944 with the Armament Ministry which at the time took over these tasks from the Reich Ministry of Economics.

Q. If I understand you correctly you have to differentiate between the two fields?

A. Yes. The military and the civilian.

Q. And the concentration camps?

A. They belonged to the civilian field.

* * * * *

Q. * * * In order to clarify matters I would like you to think about the bean example. I know you can tell us in one sentence. Need in a concentration camp for clothing was dealt with in the following manner: Would you start with the concentration camp which needed a thousand coats and a thousand jackets, rather.

A. The concentration camp needed a thousand coats. Let's start with Amtsgruppe D. D IV dealt with those coats and delivered them if they still had some goods in their stocks. However, if their stocks were exhausted then D IV either had to wait for the deliveries which were coming in in the current requisitions and then deliver the coats out of that last delivery. However, if the matter was very urgent, in other words they had to be procured, then a special request was sent to B II then requisitioned those thousand yards or meters from the current deliveries and ordered the clothing factory to deliver to the concentration camp those one thousand coats. Payment on part of the concentration camp to the clothing factory or to Amtsgruppe B didn't take place at all. The clothing was paid for only once: from the clothing factory to the factory where it had been procured. The delivery firms, that is where the payment took place, in the treasury of the factory. That is, however, payment had been effected from that moment on—the forwarding of the clothing only took place with the delivery slip and with the receipts. There was no payment by the concentration camp.

Q. Let's come back to the clothing factory now. There was a clothing factory at Dachau?

A. Yes. It was subordinated to division B.

* * * * *

Q. Would you like to tell me, the clothes which were necessary for every man, who it was that determined that for the troops?

A. The SS Operational Office did that.

Q. In other words, not you but the SS Operational Office?

A. Yes.

Q. Who was it with the concentration camps? Did you determine that, or did you receive the request? Who was it that fixed the clothing quota for the inmates?

A. The Inspectorate of Concentration Camps, and Amtsgruppe D, respectively, were the ones who fixed it.

Q. How was it that those particular pieces of clothing came to the camp for the inmates? Did they get a preview? Or how was it?

A. Amtsgruppe D gave the order to B II how the clothes had to be distributed to the camps. The delivery took place directly from the clothing factory to the individual camps.

Q. Bureaucratically, is that correct?

A. Bureaucratically, it would be correct to send the clothes to Amtsgruppe D which should have done the distribution.

Q. Why was this not done?

A. Due to the lack of transportation.

Q. Who was it that was responsible now that the individual inmates in the concentration camp received his clothes from the total amount of clothes delivered?

A. The commander of the concentration camp and his administrative chief were responsible for that.

Q. And if he didn't do it properly and correctly, who was it that had to tell him what to do?

A. The office in charge of the concentration camps, that is, Amtsgruppe D.

Q. Now, who was responsible that the clothes in the stocks were in good condition, in other words, the condition which was in accordance with the expenditure?

A. It was also the concentration camp commander and his administrative chief.

* * * * *

JUDGE PHILLIPS: * * * I would like to ask the witness a question or two. Witness, I understand you, when you were talking about clothing that you furnished for the inmates of the concentration camps, to testify that you had a conversation with the defendant Pohl in regard to this clothing, especially as to the insufficiency of it at the time you were talking to him and asked his advice about what to do to remedy the situation. Is that correct?

A. What I discussed in those individual discussions I cannot tell you today. Most of the time the things worked out this way—I reported to Pohl in those conferences about the situation in clothing of the inmates, and the same applied to the clothing for the troops, and I also informed him of the difficulties. I also informed him of what I intended to do and if he thought that was

correct and if he agreed to that, and he always agreed to it and gave his approval to almost anything that I originated.

Q. That is what I wanted to ask you: What he said in reply when you would come to him about the difficulties regarding clothing for the inmates. What, if anything, would he say to you in reply?

A. You mean what Pohl answered me?

Q. Yes.

A. Well, he asked me if I knew any way in which to get further raw materials from the Reich Ministry of Economics. I told him that we had done everything we could, and then I usually suggested a report to the Reich Leader about those difficulties. Pohl agreed, and he told me to draw up those reports and to complete them. I submitted those reports to him, and he signed them and sent them on to the Reich Leader.

Q. He agreed with your suggestions as a rule and left it rather to your discretion as to what to do?

A. Yes, indeed.

* * * * *

DR. HAENSEL: Pohl himself took over Amtsgruppe W as chief. Why did he do that? Do you know anything about it?

A. No one but Pohl could possibly take over as chief of that office. After all, he was the one who wanted to become the chief, so nobody else could become the chief.

Q. Yes, but didn't he nominate you as deputy chief of Amtsgruppe W?

A. Yes of course, because every little organization had to have a deputy. He made me deputy of W, as he made me the second manager of DWB.

Q. Did he actually give you an exact order as to what you had to do as the second man in command?

A. The order was very short, and he told me that I had nothing to do with the whole affair. He told me that he would be in charge of Amtsgruppe W.

JUDGE PHILLIPS: When were you made deputy? At what date were you made deputy to Pohl in staff W?

A. I never was his deputy in staff W. You mean Amtsgruppe W.

Q. Amtsgruppe W?

A. That was when it was established on 1 February 1942.

DR. HAENSEL: Can you tell us in one sentence the difference between staff W and division [Amtsgruppe] W?

A. Division W was the consolidation of the entire economic enterprises, and staff W was Pohl's instrument by which he led the DWB.

* * * * *

Q. Now, let us turn to your position as Pohl's deputy in his capacity as the Main Office chief. When did you deputize for Pohl, and for how long could you do so?

A. I became Pohl's deputy as Main Office chief on 16 September 1943 and remained in that position until the end.

Q. What was the reason for this?

A. The reason was, that Frank had gone.

Q. And why were you appointed Pohl's deputy as Main Office chief?

A. The reason is simple. I was the senior officer.

Q. As Pohl's permanent deputy in that capacity, did you have a special function, for instance, when Pohl was absent did you sit in his room and was it made quite clear that you were the man who replaced him?

A. No. Nothing was done in that sense. I had never sat in Pohl's room nor did I have any special function but as Pohl put it himself I was to look after the house while he was away.

Q. Was Pohl, during the last year and a half, when you deputized as Main Office chief, frequently absent?

A. No. On the contrary, it happened very infrequently during that period of time.

Q. Was he absent for long periods of time or only briefly?

A. No. His absence usually lasted a day or two, not longer.

Q. Were sometimes both of you absent, Pohl and yourself, and who then was deputy?

A. That also happened. I recall two occasions. Then the next senior officer in the house would deputize.

Q. Now, when Pohl was absent and you were there how was business done in the building, did the division chiefs come to see you, did you issue orders, what was your authority?

A. During those brief spells of absence of Pohl's nothing in the routine changed at all. The division chiefs did their duty independently. Business went on as it did before. Pohl's adjutant was present; he took long distance calls for instance, read the mail or rather kept it or forwarded it to Pohl and usually I didn't even notice that Pohl wasn't there. I only noticed it when I had to make small disciplinary decisions. I simply deputized for Pohl as the master of the house when he was absent.

Q. Before Pohl left on these occasions did he give you any special orders; did you perhaps in this manner acquire official knowledge which otherwise you would not have acquired had you not deputized for him?

A. No. In no way at all. When I deputized for Pohl, he himself said expressly that I need not bother about the other divisions;

they were responsible to him direct, and during his absence the same responsible officials were in charge.

* * * * *

EXTRACT FROM TESTIMONY OF DEFENDANT SOMMER *

DIRECT EXAMINATION

* * * * *

DR. BELZER (counsel for defendant Sommer): Will you tell us how you joined office D II of the WVHA?

A. * * * Mumenthey asked me to come and see him one day, and in the presence of Oppenbeck who was an assistant manager there, asked me the rather surprising question, "Do you want to become a Main Section chief?" He told me then that Maurer had asked him to use me as a collaborator in office D II, that is to say to have me released from the DEST, the German Earth and Stone Works, and he would leave it up to me if I wanted to collaborate with Maurer or not. I asked him to give me 24 hours' time to think it over, and on the following morning I asked Mumenthey to help me to speak to Maurer personally. I then went to Oranienburg; I reported to Maurer and he told me approximately the following: I knew all the trouble of the economic enterprises with reference to labor assignment of prisoners, and he would appreciate it if I would help him to create clearer and cleaner conditions in the labor assignment of prisoners. He intended to have me released from the DEST and employ me as a civilian employee in his organization. I would like to point out explicitly here that during that conference we only mentioned the fact that inmates were to be used in the economic enterprises. We didn't speak about any labor assignment in the armament industry, because according to my knowledge there was no such thought at the time. At least, as far as my conference with Maurer was concerned we didn't discuss any such thing.

Q. When did you start your duties in office D II?

A. The department labor assignment with the DEST was dissolved, and I started working with D II on 5 May 1942.

Q. Up to what time were you a member of office D II?

A. Approximately up to the capitulation. Office D II, practically speaking, had ceased existing towards April 1945, because there was no communication whatsoever with the concentration camps then.

Q. Where did you live at the time?

A. At the time I lived in Berlin; I drove daily from Berlin to

* Complete testimony is recorded in mimeographed transcript, 30 June, 1, 2 July 1947, pp. 3653-3878.

Oranienburg; and I returned to Berlin in the evening, and did that approximately up to 23 August 1943. On that day I was bombed out in Berlin, and I had to move to Oranienburg.

Q. Would you give this Tribunal a sort of description of the organization or work of Amtsgruppe D?

A. Amtsgruppe D was at the time Inspectorate of Concentration Camps, and in addition to that, or rather as an extension to that, had office D II, labor assignment of inmates. Amtsgruppe D consisted of office D I, the central office, which was always used as a liaison office for us between the RSHA and the concentration camps; office D II, labor assignment of inmates; office D III which, according to the table of organization, was called medical and camp hygiene which we, however, considered the chief physician of the concentration camps, and office D IV, administration of concentration camps which was deactivated towards August 1942, and which was then reestablished in the middle of 1943.

Q. Would you tell the Tribunal a synopsis concerning the organization and the field of tasks of office D II?

A. The organization of office D II corresponds to the organizational chart introduced by the prosecution in NO-111, Exhibit 38, in book 2. Office D II, in May of 1942, consisted of the chief of office and three experts. The name of office D II was "Labor Assignment of inmates:" special Department D II/1 was, "Inmate Labor Assignment:" D II/2, "Training of Inmates:" and the department D II/3, "Accounting and Statistics."

Office D II was Pohl's instrument, so to speak, for the guidance of labor assignment of all the concentration camp inmates within the Reich area; and later on also, in addition to that, of the concentration camp Herzogenbusch [Hertogenbosch]. When the concentration camps of the occupied Eastern territories were added the concentration camps in the "Eastland", that is to say, in Riga, Kaunas [Kovno], and Vaivara were directly subordinated to the SS Economist of the Higher SS and Police Leader.

The conditions in the Government General were not very clear ever since the beginning, and they were only established slowly and subordinated to the SS Economist. There was no written order through the office D II. The duties of office D II, in detail, are approximately the following:

The office had to deal with the wishes of the business managers of the SS enterprises concerning labor assignment by channeling it through the camp commandant, who at the same time was the business manager. Furthermore, they had to take care of the wishes of the SS construction agencies, and only at the beginning to a very small extent, they had to take care of private enterprises. The wishes had to be submitted to Pohl, and Pohl decided

if the transfer of the inmates should be effected provided that there were inmates in the camps.

In the end of summer 1942, there were also negotiations with authorities of the Reich agencies in Berlin upon Pohl's orders. Then there were negotiations with the members and agents of the self-administration of the Germany economy also in Berlin; furthermore, instruction of the commanders and their experts, by drawing their attention to the necessity of the importance of the labor assignment of inmates. Then there was a current checking-up on the labor assignment of inmates with the industrial firms by office chief Maurer. Then we had to pass on basic orders of Himmler's and Pohl's, and also from Gluecks, to the camp commandants as far as they were concerned with questions of labor assignment. Then the writing of periodical reports concerning labor assignment of inmates. We also had to compile reports on the number of inmates to Pohl and Himmler, current control of labor assignment on the basis of reports which were sent in by the camp commandants to office D II. Then guidance of auxiliary and skilled workers. If there ever was a lack of such skilled workers or surplus of such men somewhere, that went to Gluecks. Furthermore, we had to take care of all [office] procedures which dealt with the labor assignment, thereby taking care of them in an official way.

* * * * *

EXTRACTS FROM TESTIMONY OF DEFENDANT FANSLAU *

DIRECT EXAMINATION

DR. STACKELBERG (counsel for defendant Fanslau): Will you please give us your full name and your birth date?

A. Heinz Karl Fanslau, born on 6 June 1909.

Q. Witness, I would like to speak with you immediately about the material points, namely, when were you assigned to the WVHA?

A. On 1 February 1942.

Q. What was the position you had there?

A. I became chief of Amt A V of the personnel office.

* * * * *

CROSS-EXAMINATION

MR. ROBBINS: Now, let's turn a moment to another subject. Some administrative leaders in the concentration camps were named by you, were they not designated by you?

A. Well, they were furnished by me.

* Complete testimony is recorded in mimeographed transcript, 11, 12 June, 27, 28 August, 3 September 1947; pp. 2531-2675, 6973-7048, and 7357-7366.

Q. You sent Burger out to Auschwitz around 1943 as an administrative officer in Auschwitz, didn't you?

A. I don't know anything about that. I believe he was already at Auschwitz when I came.

Q. You don't remember sending him to Auschwitz? You don't remember signing the order sending him there?

A. It may be possible, but I assume that he had already been sent there at an earlier period of time. However, it is quite possible that this was done on my orders in this individual case. With these 2,800 or 2,500 people, I really can't recall in detail whom I sent; but it is quite possible.

Q. Wasn't this actually a function of office A V/4?

A. No.

Q. What office under A V handled this matter?

A. A V/2.

Q. Now, if someone was called back from the Waffen SS, from the front, for example from the Death Head combat division, to the WVHA for reassignment as an administrative officer in the concentration camp, this would be handled in A V/2. Is that right?

A. Well, it doesn't matter from what unit in the field he came. That applied to all units in the field. Later on there were no Death Head units anymore, but we had a Death Head division. After the beginning of the war the division was designated as the "Death Head" division, just like any other division, the "Viking" division, or the Division "Das Reich." This applied to all divisions.

* * * * *

B. The Concentration Camp System

I. INTRODUCTION

The indictment charged, in paragraph 14, that "The concentration camps were the principal means through which the defendants committed the crimes charged." The materials reproduced in this section deal with the concentration camp system, the treatment of the concentration camp prisoners or inmates, their working conditions, their state of health, their death rate, etc. Evidence of the prosecution, on pages 353 to 416, is followed by evidence of the defense pages 417 to 481. Of course evidence on the concentration camp system is likewise contained in the material gathered together in subsequent sections, since the concentration camp system was connected in various ways with the economic enterprises of the WVHA, (pp. 481 to 577); the allocation of inmates to construction and industrial work, (pp 577 to 607);

the extermination program, (pp. 607 to 692) ; and the utilization of the property of deceased inmates, (pp. 692 to 763).

For defense argument concerning the organization and development of the concentration camps, special reference is made to the closing statement on behalf of the defendant Pohl on pages 865 to 921.

2. SELECTIONS FROM THE EVIDENCE

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-4353	644.....	Letter from SS Construction Management Office, Buchenwald to Gruppenfuehrer Eicke, Berlin, 18 June 1938, requesting approval for erection of a new crematorium; indorsement by Eicke to Chief of SS Administration, Munich, 21 June 1938, recommending approval of request.	353
NO-4401a	650.....	Description by SS Construction Management Office, Buchenwald, 10 January 1940, of emergency crematorium with oil burning furnace to be erected at concentration camp Buchenwald.	354
NO-4400	649.....	Letter from SS Construction Management Office, Buchenwald, to Main Office Budget and Buildings (Berlin), 21 January 1940, concerning construction of emergency crematorium at Buchenwald concentration camp.	355
NO-034	29.....	Report by Gluecks to Himmler (copies to Pohl and Heydrich), 21 February 1940, about suitability of Auschwitz and other sites as concentration camps.	356
NO-2367	706.....	Report of the Camp Physician of Buchenwald, 15 July 1941, on state of health of transferred prisoners; and letter, 16 July 1941, forwarding this report to Main Office of Budget and Buildings.	359
NO-4344	651.....	Letter from Construction Management of the Waffen SS and Police, Gross-Rosen to Main Office, Budget and Buildings, 28 August 1941, forwarding letter of firm of Tesch and Stabenow, Hamburg, concerning "delousing plant". NO-4345, Pros. Ex. 652.)	362
NO-4345	652.....	Letter from Tesch and Stabenow,	363

Doc. No.	Pros. Ex. No.	Description of Document	Page
		Hamburg, to SS Construction Management, Gross-Rosen, 25 August 1941, requesting priority certificates for construction of two extermination chambers (enclosure to NO-4344, Pros. Ex. 651).	
NO-500	55.....	Teleprint from Himmler to Gluecks, 25 January 1942, requesting preparations to receive up to 150,000 Jews in concentration camps.	365
NO-1284	114.....	Circular of office D I/1 of WVHA, 21 April 1942, concerning work assignments for clergymen in concentration camps.	365
NO-1935	129.....	Letter from Maurer to commander of the Buchenwald concentration camp, 7 December 1942, regarding state of health of transferred prisoners.	366
NO-2031	341.....	Circular order of Himmler, 6 January 1943, concerning order to Pohl and chief of Security Police and SD, to establish a special camp for children and adolescents in Lublin or Auschwitz.	367
858-PS	153.....	Order of Frank to concentration camps, 7 January 1943, concerning property of deceased prisoners.	368
NO-1290	60.....	Circular letter of Pohl to concentration camp commanders, 22 January 1943, concerning working time of prisoners.	370
NO-1523	342.....	Circular letter by Gluecks to concentration camp commanders, 20 January 1943, urging lowering of death rate; and enclosure, copy of letter of Gluecks to Pohl, 31 December 1942, about new categories of prisoners to be sent to the camps.	372
NO-1285	164.....	Letter from Pohl to Himmler, 15 March 1943, concerning state of health and mortality of prisoners in "protective custody"; undated draft of letter from Pohl to Minister of Justice on same subject.	374
NO-1291	95.....	Circular letter, 29 June 1943, announcing change of name of camp Bergen-Belsen for tactical reasons.	376

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-599	63	File note by Pohl, 7 September 1943, on conference with Georg Loerner and others, concerning taking over of labor camps in Lublin district.	377
1469-PS	165	Report by Pohl to Himmler, 30 September 1943, on deaths in the concentration camps, and Himmler's answer, 8 October 1943.	379
NO-020(a)	81	Letter from Pohl to Himmler, 5 April 1944, showing number of camps in Germany, the East, and the Netherlands; and Himmler's answer, 22 April 1944.	383
NO-021	357	Letter by Pohl to Himmler, 5 April 1944, concerning security measures in Auschwitz; Himmler's answer, 9 May 1944.	384
NO-1558	109	Circular of Gluecks, 9 May 1944, ordering that reports on transfers and deaths of prisoners delivered by collective shipment from the East be discontinued.	387
NO-1990	73	Report by Burger to Georg Loerner, 15 August 1944, on prisoners' strength, expected new arrivals, and inventory of prisoners' clothing.	388
NO-3793	582	Extracts from report of German Shale Oil Company, 4 December 1944, to WVHA, on conditions in camp Bisingen.	392

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Volk 25	Volk Ex. 13	Extracts from Ordinance of Reich President Hindenburg "For the Protection of People and State," 28 February 1933.	417
Pohl 4	Pohl Ex. 3	Extract from law concerning the Secret State Police (Gestapo), 10 February 1936.	417
Pohl 5	Pohl Ex. 4	Extract from Goering's Decree, 10 February 1936, implementing the law concerning the Secret State Police (Gestapo).	419
Sommer 34	Sommer Ex. 32	Decree of Reich Minister of Justice, 23 March 1938, concerning compulsory labor of prisoners before trial.	420
Georg Loerner 26	Georg Loerner Ex. 23	Order, unsigned, 14 December 1938,	420

Doc. No.	Def. Ex. No.	Description of Document	Page
		concerning duties of Gestapo and collaboration of Party agencies.	
Mummenthey 16	Mummenthey Ex. 22.....	Extract from Decree of the Reich Ministry of the Interior, 30 April 1938, establishing 8-hour regular working day.	421
Mummenthey 17	Mummenthey Ex. 23.....	Directive of Goering and Todt, 15 February 1939, concerning working hours on building sites.	422
Mummenthey 19	Mummenthey Ex. 25.....	Decree of Goering, 1 September 1939, abrogating decree of 30 April 1938, concerning 8-hour regular working day.	423
Georg Loerner 28	Georg Loerner Ex. 25.....	Letter of Lammers to Guertner, Reich Minister of Justice, 8 August 1939, and letter of Bouhler, chief of the Party Chancellery, to Lammers, 26 July 1939, concerning transfer of security detainees to concentration camps.	424
Pohl 13.....	Pohl Ex. 12.....	Extracts from article by Freisler, Under State Secretary in Reich Ministry of Justice, on "Work Assignments and Penal Administration," published in "German Justice", 13 September 1940.	426
	*		
Mummenthey 20	Mummenthey Ex. 26.....	Extracts from Circular Decree of Goering, 10 April 1942, concerning 56-hour minimum working week of civil servants.	428
Mummenthey 21	Mummenthey Ex. 27.....	Decree, 31 August 1944, increasing regular working week to 60 hours where necessary.	429
Pook 11.....	Pook Ex. 2.....	Extracts from "The Gold of the Dead" by Dr. Werkenthin (Dental Magazine, 1925).	475
Sommer 44.....	Sommer Ex. 41..	Affidavit of Hermann Pister, commandant of concentration camp Buchenwald, concerning "Special Treatment" there.	478
Hohberg 4.....	Hohberg Ex. 13.	Extract from "Yearbook of Economic Trustees for 1941," concerning professional ethics of Economic Examiners.	479
Hohberg 32.....	Hohberg 34.....	Affidavit of Heinz Savelsberg, concerning Hohberg's visit to I. G. Farben Plant Auschwitz.	480

Testimony

	Page
Extracts from testimony of prosecution witness SS Doctor Karl Kahr	394
Extract from testimony of prosecution witness Jerzy Bielski.....	407
Extract from testimony of prosecution witness Dr. Bernhard Lauber	412
Extracts from testimony of defendant Oswald Pohl.....	430
Extracts from testimony of defendant Frank.....	448
Extract from testimony of defendant Fanslau.....	451
Extracts from testimony of defendant Sommer.....	453
Extracts from testimony of defense witness Helmut Bickel.....	459

TRANSLATION OF DOCUMENT NO-4353
PROSECUTION EXHIBIT 644

LETTER FROM SS CONSTRUCTION MANAGEMENT OFFICE, BUCHENWALD TO GRUPPENFUEHRER EICKE, BERLIN, 18 JUNE 1938, REQUESTING APPROVAL FOR ERECTION OF A NEW CREMATORIUM; INDORSEMENT BY EICKE TO CHIEF OF SS ADMINISTRATION, MUNICH, 21 JUNE 1938, RECOMMENDING APPROVAL OF REQUEST

Construction Sector
BA VI

[Rubber Stamp]

SS Administrative Office Construction Management Office
Buchenwald-Sachsenhausen
Journal number: 2141/38

Weimar-Buchenwald, 18 June 1938

[Rubber stamp]

Der Fuehrer SS-TV/KL [The chief of Death Head Units
and Concentration Camps]

21 June 1938

To: Chief of SS Death Head Units and Concentration Camps
SS Gruppenfuehrer Eicke,
Berlin NW 7

Friedrichstrasse 129

Block F.

Subject: Approval of requisition for material to build a new
crematorium for the Buchenwald concentration
camp, BA VI/44.

Reference: Your directive.

Enclosures: 9

Enclosed herewith, forwarded in duplicate, with request for approval of construction funds—a detailed description, a set of plans, estimates of materials and costs, as well as a plan of the site for a new crematorium at the Buchenwald concentration camp, final cost to be RM 14,000.

A copy of this request is enclosed.

[Stamp]

Reich Leader SS
Administrative Chief
Received 22 June 1938
By.....

[Stamp]

SS Adm. Office Construction Management Office,
Buchenwald-Sachsenhausen

[Signature] RIEDL
SS Obersturmfuehrer

Berlin, 21 June 1938

The Chief of SS Death Head Units and
Concentration Camp

F/File 14/21 June 38 Ha.

Original to: Chief of SS Administration, Munich 33

Registered Mail!

I request approval for construction of a crematorium for the Buchenwald concentration camp. With the increased strength there are death cases almost daily, which must be taken care of by the city crematorium in Weimar, at State expense. In order to save the Reich money and also for political reasons, I request you to approve this requisition.

The Chief of the SS Death Head Units
and Concentration Camps

[Signature] EICKE
SS Gruppenfuehrer

Copy to:

SS Obersturmfuehrer Riedl,
Concentration Camp Buchenwald

[Stamp]

Received V 5/II 24 June 1938

Page number 76.1

TRANSLATION OF DOCUMENT NO-4401a
PROSECUTION EXHIBIT 650

DESCRIPTION BY SS CONSTRUCTION MANAGEMENT OFFICE, BUCHENWALD, 10 JANUARY 1940, OF EMERGENCY CREMATORIUM WITH OIL BURNING FURNACE TO BE ERECTED AT CONCENTRATION CAMP BUCHENWALD

Building Description

Construction of an Emergency Crematorium
in the Prison Camp, CC Buchenwald

As a result of the high *mortality rate* in the Buchenwald concentration camp, it has *become necessary* to supply an emergency crematorium with oil-burning cremation furnace (double muffle furnace).

For this a *space 6 x 9* meters and 4 meters high will be required. Because of the shortage of wood, the building is being erected in stone and is *not to be provided with cellars*. The floor of the room will consist of a layer of clinkers on a concrete base. The ceiling will be *faced with 2½ cm.* of strong *Heraklith sheets* and plastered. The roof will be covered with a double layer of tar paper. All *visible woodwork* as well as the gutters and *wastepipes* will get a *coat of oil paint* (Ersatz oil). The *inside walls and ceiling* will be painted with glue-color.

The furnace is being supplied and erected by the firm, J.A. Topf and Soehne, Erfurt, Dreysesstrasse 7-9.

A description of the furnace can be seen in the estimate of the firm Topf Soehne of 21 December 1939 which has been added to the enclosure.

The construction is in response to the order of the chief of the Main Office Budget and Buildings, office II/b 265 Ri/Sa of 9 and 11 December 1939, respectively.

Drawn up:

Weimar-Buchenwald, 10 January 1940

[Stamp]

Main Office Budget and Buildings

SS Construction Management Office Buchenwald

[Signature] GRIMM [?]

SS Untersturmfuehrer and Construction Manager

TRANSLATION OF DOCUMENT NO-4400
PROSECUTION EXHIBIT 649

LETTER FROM SS CONSTRUCTION MANAGEMENT OFFICE, BUCHENWALD, TO MAIN OFFICE BUDGET AND BUILDINGS (BERLIN), 21 JANUARY 1940, CONCERNING CONSTRUCTION OF EMERGENCY CREMATORIUM AT BUCHENWALD CONCENTRATION CAMP

3776/39

Weimar-Buchenwald, 21 January 1940

To the

Reich Leader SS

Main Office Budget and Buildings

Attention: SS Hauptsturmfuehrer Riedl

Berlin-Lichterfelde-West

Unter den Eichen 126

Subject: Application for approval of building materials for the construction of an emergency crematorium in the prisoners' camp of the Buchenwald concentration camp.

Reference: Your order.

Enclosures: 2

I enclose two copies each of the following, with the request that approval be granted for the building materials:

Description of construction,

Estimate of costs and dimensions,

Cost estimate submitted by the firm J. A. Topf and Sons, Erfurt, dated 13-1-40,

together with the necessary working drawings for the construction of an emergency crematorium in the prisoners' camp of the Buchenwald concentration camp, amounting to R.M. 11,320 [amount crossed out by hand and 14,200 written above, followed by illegible initial and date, 25-1-40]

A copy of this application, together with a plan of the layout, is enclosed.

Main Office Budget and Buildings
SS Construction Management Office
Buchenwald

[Signature] Grimm [?]

SS Untersturmfuehrer and Construction Manager

TRANSLATION OF DOCUMENT NO-034
PROSECUTION EXHIBIT 29

REPORT BY GLUECKS TO HIMMLER (COPIES TO POHL AND HEYDRICH), 21 FEBRUARY 1940, ABOUT SUITABILITY OF AUSCHWITZ AND OTHER SITES AS CONCENTRATION CAMPS

II c / 5

Oranienburg, 21 February 1940

The Reich Leader SS
The Inspector of Concentration Camps
File No: 14 a 12/L/Ot.

REGISTERED MAIL

[initials]. H.H.

To the
Reich Leader SS and Chief of the German Police
Berlin SW 11

Copies to:

1. SS Gruppenfuehrer Pohl (with 9 enclosures).
2. SS Gruppenfuehrer Heydrich (no enclosures).

Subject: Camps for inmates under the jurisdiction of the
Higher SS and Police Leaders.

Reference: RFSS-Personal Staff, Journ. No. g.R./694/40
Wa/Kp/ of 1 February 1940.

Enclosures: 3

The Reich Leader SS ordered by virtue of the above-mentioned decree the inspection of the below-mentioned prison camps whether they would be suitable as concentration camps.

1. Police prison in *Welzheim*.

2. Transit camp in *Kislau*.

(Both under the jurisdiction of the Higher SS and Police Leader Southwest.)

3. Camp *Frauenberg near Admont*. (Under the jurisdiction of the Higher SS and the Police Leader Alpenland.)

4. Camp *Sosnowitz East, Upper Silesia*.

5. Camp *Auschwitz, Upper Silesia*.

(Both under the jurisdiction of the Higher SS and Police Leader Southeast.)

The inspection was carried through. The result was the following:

1. *Welzheim*. *Welzheim* is *not* a concentration camp, but has been a prison of the Secret State Police since 1934 and is subordinate to this. The designation "concentration camp" must have been given by mistake. It is *not fit* for concentration camp purposes.

2. *Kislau*. *Kislau* is a prison camp of the Reich Justice Administration under guard of the justice administration and management of a prison director. It is fit to house 600 prisoners. Up to the start of the present war, the Gestapo Karlsruhe brought members of the foreign legion into the camp too (for compensation of the expenses); at the present there are still seven legionnaires in *Kislau*. In 1933-34 there was a concentration camp near *Kislau*, therefore the present justice prison camp is still wrongly designated "concentration camp." *Kislau*, a former hunting castle of the duke is *not fit* for concentration camp purposes.

3. *Frauenberg near Admont*. *Frauenberg* is a *labor camp*, established by the State Relief Organization [Landesfuersorgeverband] Styria for notorious lazybones and drunkards. There are five wooden barracks and they can house 300 inmates. The labor camp inmates are exclusively people from Styria who are getting paid for their work by the State Relief Organization during the time they are imprisoned in the camp (27-57 pfennigs per hour, less expenses for food). The SA (approximately 20 men) are serving as guards. The labor camp inmates work in two quarries and on road construction. Near the camp there is a moor of

approximately 25–30 qkm [square kilometers]. (It is about 25 meters deep.) This estate is now property of the State. Formerly it was the property of the convent Admont. In its present condition, Frauenberg is, without extensive construction, *not suitable* for concentration camp purposes.

4. *Sosnowitz, Upper Silesia.* Sosnowitz has been only temporarily and provisionally established as a transit camp for emigrating Jews; at the present time 300 Jews are there. The Jewish Community Sosnowitz takes care of these Jewish emigrants. For this purpose straw has been put on the floor of the *factory hall*, without any installations, without water, and without any opportunity to cook. It is neither fit as a concentration camp, nor as a quarantine camp.

5. *Auschwitz, Upper Silesia.* Auschwitz, a former Polish artillery barracks (brick and wood buildings), will be *suitable* as a quarantine camp after adjusting some sanitary and other deficiencies concerning accommodations. A detailed report was submitted to the RFSS and chief of the German Police, to Gruppenfuehrer Pohl, to Gruppenfuehrer Heydrich, and to the Reich Physician SS. The still necessary investigations with regard to buildings and hygiene in Auschwitz are carried out at the present time. As soon as the negotiations brought about by the chief of the Security Police for cession of the camp from the armed forces, are finished—there is still, as already reported, one construction company in the camp—the arrangement as a quarantine camp will be carried out immediately. I already made the necessary preparations for that.

6. *Stutthof.* A detailed report was submitted to the Reich Leader SS concerning the taking possession of the camp Stutthof near Danzig as a State concentration camp [Staatliches K.Z.]. SS Gruppenfuehrer Pohl and SS Gruppenfuehrer Heydrich expressed themselves in favor of taking possession. I submitted to SS Gruppenfuehrer Pohl the documents of the camps under the jurisdiction of the Higher SS and Police Leader *Warthe and Rhine* which I do not have to inspect, with the request, to inform me whether he is interested in these camps. After having seen the reports I am of the opinion that these camps are unsuitable as concentration camps.

[Signed] GLUECKS
SS Oberfuehrer

[Stamp]

Personal Staff RFSS
Entry: 22 February 1940
Journal No: 732 /g. Rs.
To: RF
Enclosures: [Illegible]

TRANSLATION OF DOCUMENT NO-2367
PROSECUTION EXHIBIT 706

REPORT OF THE CAMP PHYSICIAN OF BUCHENWALD, 15 JULY 1941,
ON STATE OF HEALTH OF TRANSFERRED PRISONERS; AND LETTER,
16 JULY 1941, FORWARDING THIS REPORT TO MAIN OFFICE OF
BUDGET AND BUILDINGS

COPY

Buchenwald Concentration Camp
"Camp Physician"

Weimar, Buchenwald, 15 July 1941

To the Camp Commandant
Concentration Camp Buchenwald

Subject: New admissions from Dachau concentration camp.

Reference: ./.

Enclosures: ./.

The two shipments from Dachau of 5 and 12 July do not only mean a considerable burden for the prisoners' infirmary, but also a corresponding burden for the whole camp.

In serious cases, altogether, 343 Dachau prisoners had to be admitted as in-patients. These are principally surgical cases, all of which demand a long treatment. The wounds were in a condition beyond description. Mostly, they were stenchy ulcers, the size of the palm of the hand, covered with a coat of greenish slime (a consequence of severe phlegmons), furthermore, second and third degree burns on the back of the feet with strong oedemas (sunburn).

In an average camp population of 6,500 prisoners, before the arrival of the shipments from Dachau, the total number of prisoners treated as in-patients amounted to 170. To make room for the most serious Dachau cases a number of these patients had to be discharged from the infirmary. On 15 July 1941 the number of in patients had increased to 413. Due to lack of beds in the infirmary, three prisoners had in many cases to sleep in two beds and further, 414 had to be treated and hospitalized in their barracks. The latter are mainly suffering from serious oedemas of the lower extremities.

The number of surgical out-patients, which amounted altogether to 518 prisoners on 5 July 1941, rose to 1094 on 14 July 1941, after the arrival of the two Dachau shipments; daily treatments in the surgical out-patients' department in the same time rose from 397 to 832.

In the internal out-patients' department the number rose correspondingly from 196 to 468 daily.

So far only 32 prisoners from both shipments have been isolated because of open tuberculosis. Of these, five have died in the meantime. This sample taken at random makes it likely that the number of prisoners stricken with tuberculosis will increase 200-300. Up to now only the most apparent cases have been picked out as our installations are not adapted for mass examinations.

Altogether 138 cases of scabies, 6 cases of body lice, and 117 cases of extensive impetigo have been established.

It is pointed out that the camp was free from vermin up to the arrival of the Dachau prisoners, and that the numerous cases of scabies mean a danger for the entire camp, but the transfer of the Dachau prisoners stricken with open tuberculosis to this camp will result in a much more dangerous source of infection. Not only the danger of infection for the camp must be remembered, but also the serious danger for the members of the camp complement, who come in direct contact with the camp inmates.

In the case of one prisoner, typical, bloody, slimy stools were found, which made it necessary to isolate him for suspected dysentery.

Up to 15 July 1941 altogether 24 Dachau prisoners have died, five of tuberculosis.

In conclusion it can be said concerning the state of health of the Dachau prisoners, that not a single prisoner is fully fit for labor duty and, that also in the near future only a very small percentage will be fully fit for labor duty. It may be in the interest of the entire camp, especially also of the members of the camp complement, to keep the Dachau prisoners for the time being isolated. The camp physician will carry out a weekly control and will report on the degree of fitness for duty.

The foregoing figures do not include prisoners who on account of their feeble health can in future only be given light work (darning stockings, etc.).

The Camp Physician, Buchenwald Concentration Camp,

[Signed] HOVEN *

SS Obersturmfuehrer of the Reserve *

Certified true copy.

[Signature] ZIMMER [?]

SS Untersturmfuehrer of the Reserve

Chief of branch office I/5 in Buchenwald concentration camp

* Waldemar Hoven, M.D., defendant in the case of United States vs. Karl Brandt, et al., vols. I and II.

16 July [194]1

File No. 10206/7.41./Gr.

Transfer of 2,000 prisoners from Dachau concentration camp to
Buchenwald concentration camp.

Reich Leader SS—Inspector of Concentration Camps (Pol. File
No. 14 d 6/L./Ot. of 27 June 1941.

1 (One) report of Camp Physician, Buchenwald concentration
camp, of 15 July 1941

To the

Main Office of Budget and Buildings

Main Department I/5

Berlin-Lichterfelde-West

Unter den Eichen 126

The branch office I/5 in Buchenwald concentration camp reports
the completion of the transfer of 2,000 prisoners from Dachau
concentration camp to Buchenwald concentration camp, which
was commanded by the order referred to above.

The shipments, consisting of 1,000 prisoners each, arrived here
on 5 July and 12 July 1941.

The largest part of the prisoners transferred are sick persons
and cripples who are absolutely unfit for labor duty. Many of
them had been previously in Buchenwald and were then trans-
ferred to Dachau because they were cripples. After a minimum
period of rest of about 4 to 6 weeks it may perhaps be expected
that 5 percent of them can be used for work, but even then only
for work of the lightest nature. Up to the present moment 30
prisoners have already died. One copy of the report of the camp
physician, Buchenwald concentration camp, on the physical condi-
tion of the prisoners is being forwarded as enclosure for your
information.

It is no exaggeration when the camp physician states that the
transfer means a very serious danger for the members of the
command and for the guards-troops in the first place, as well
as for the other camp inmates.

Naturally neither the commandant of Dachau concentration
camp nor the chief of branch office I/5 can be blamed in this
case, because this transfer was ordered. The foregoing report and
the copy of the report of the Camp Physician, Buchenwald con-
centration camp, are only forwarded for your information in
order to furnish a reason for the enormous increase in the
number of "prisoners unfit for work," and to save possible neces-
sary inquiries of the Main Department I/5.

The Chief of Branch Office I/5 in
Buchenwald Concentration Camp

TRANSLATION OF DOCUMENT NO-4345
PROSECUTION EXHIBIT 652

LETTER FROM TESCH AND STABENOW, HAMBURG, TO SS CONSTRUCTION MANAGEMENT GROSS-ROSEN, 25 AUGUST 1941, REQUESTING PRIORITY CERTIFICATES FOR CONSTRUCTION OF TWO EXTERMINATION CHAMBERS (ENCLOSURE TO NO-4344, PROS. EX. 651)

TESCH AND STABENOW

International Vermin Exterminating Corporation, Ltd.
[Internationale Gesellschaft fuer Schaedlingsbekaempfung
m.b.H.]

Hamburg 1. 25 August 1941
Messberghof

To the
Main Office Budget and Buildings,
SS Construction Management Office Gross-Rosen
Gross-Rosen
Reference: W/Ra.
Folder: Ka. I
Kreis Schweidnitz
Your letter of 11-8-41
Delousing installation

We still have to acknowledge receipt of your above letter and thank you very much for your order for the delivery of circulation equipment for *two extermination chambers of 10 cubic meters each, 8 transport trucks, and 2 spring tele-thermometers* as per our offer of 24-7-41.

We have noticed that you wish to receive heat registers for electric heating instead of for hot water heating. We have informed our delivery plant accordingly and have requested a price estimate. As soon as we receive the plant's answer, we shall inform you concerning a possible price difference.

We shall send you the drawing you requested in larger scale as soon as possible.

To your question regarding the chamber doors, we reply that the doors must extend beyond the door opening. This accounts for the greater width.

Finally, with regard to the speedy delivery of the circulation equipment requested by you, we have just received word that due to the loss of further skilled workers to the armed forces the delivery plant is no longer in a position to meet the previously agreed delivery dates in the future. Above all, this applies to such orders as cannot be classified under a priority rating. It will be

possible to make delivery more or less on time only if priority certificates are submitted. The filling of orders without priority rating by the plant has led to the result that the Control Commission considers these orders as civilian orders and has not granted the plant protection against the withdrawal of workers, so that workers were lost through conscription for military service.

Therefore, we request that you kindly make out a priority certificate for us later and forward it to us very soon so that we can give it to the plant for the continuance of its work.

In consideration of the longer delivery dates generally required today, we recommend that you place an order as soon as possible for the equipment needed for operating the chambers, for which we made you an offer in our letter of 11 August 1941. At present the delay in deliveries of masks and oxygen equipment amounts to about 3 months.

Heil Hitler!

TESCH AND STABENOW

International Vermin Exterminating Corporation, Ltd.

[Signed] K. WEINBACHER

P. S.

The delivery plant called our attention today to the fact that an exact statement of the operating current is necessary in order to make electric heating registers with a performance of 10 KW each. Therefore, we request you to inform us whether your operating current is 220 or 380 volts.

After writing the preceding lines, we today received your letter of 23 August 1941. We take the liberty of referring you to our above statements concerning procurement of a priority certificate. We recommend that you send it to us by return post, if possible, so that the delivery plant can make the statements requested by you concerning the presumable delivery date.

We hope that we will be able to forward you the drawing in the near future.

Certified true copy.

Main Budget and Buildings Construction Management
of the Waffen SS and Police Gross-Rosen

[Signed] M. HAFER

SS Oberscharfuehrer and Construction Manager

TRANSLATION OF DOCUMENT NO-500
PROSECUTION EXHIBIT 55

TELEPRINT FROM HIMMLER TO GLUECKS, 25 JANUARY 1942, RE-
QUESTING PREPARATIONS TO RECEIVE UP TO 150,000 JEWS IN
CONCENTRATION CAMPS

[Stamp]
Despatched by teletype
day month hour
26 1 12⁰²
to apparatus by
Orbg. Wo

[Handwritten note] VIII./1 No-500 1032

[Time stamp]

26 Jan 1942

10-11 35 min

[22-23]

[Handwritten note illegible]

TELEPRINT

SS Brigadefuehrer Gluecks
Oranienburg

As no more Russian prisoners of war are expected in the near future, I shall send to the camps a large number of Jews and Jewesses who will be sent out of Germany. Make the necessary arrangements for the reception of 100,000 male Jews and up to 50,000 Jewesses into the concentration camps during the next 4 weeks. The concentration camps will have to deal with major economic problems and tasks in the next weeks. SS Gruppenfuehrer Pohl will inform you of particulars.

[Signed] H. HIMMLER

25-1-1942

[signature illegible]

File b

TRANSLATION OF DOCUMENT NO-1284
PROSECUTION EXHIBIT 114

CIRCULAR OF OFFICE D I/I OF WVHA, 21 APRIL 1942, CONCERN-
ING WORK ASSIGNMENTS FOR CLERGYMEN IN CONCENTRATION
CAMPS

SS Economic & Administrative Main Office
Chief of Division D
Concentration Camps

D I/1 /file No.: 14c 9 /Ot. /U.—
Secret Diary—No. 243/42

Oranienburg, 21 April 1942

To the Camp Commanders of the Concentration Camps
Da., Sah., Bu., Mau., Flo., Neu., Au., Gr.-Ro., Natz.,
Nie., Stu., Arb., Rav., Pw camp Lublin
Copy to Chief of Office D II in the building
Subject: Labor assignment of clergymen.
Reference: SS Economic Administrative Main Office
Ch. Po/IIa. of 18 April 1942
Enclosures: None

[Stamp]
Secret

The Reich Leader SS and Chief of the German Police gave the order that the Polish and Lithuanian Pfaffen * [priests] are to do real work, that means they may be assigned to any labor. But German, Dutch, and Norwegian clergymen are to be put to work, now as before, in the gardens for medical herbs.

The execution of this order is to be reported here.

ACTING:

[Signature] LIEBEHENSCHER
SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO-1935
PROSECUTION EXHIBIT 129

LETTER FROM MAURER TO COMMANDER OF THE BUCHENWALD
CONCENTRATION CAMP, 7 DECEMBER 1942, REGARDING STATE
OF HEALTH OF TRANSFERRED PRISONERS

SS Economic and Administrative Main Office
Amtsgruppe D—Concentration Camps

[illegible handwritten initial]

Telephone: Collective No. 3171

File: D II/1 23/2 So./F: to be referred to in reply

Oranienburg near Berlin
7 December 1942

To the
Commander of Buchenwald Concentration Camp
Subject: Transfer of prisoners (unskilled building workers) to
Auschwitz concentration camp.

* The derogatory German term "Pfaffen" is used for priests. It originated from Greek "papas" (father). "Pfaffen" originally was an honorary name for all clergymen: here used in a derogatory sense.

Below I submit copy of a teletype by the commander of Auschwitz concentration camp:

"From among the prisoners shipped from Buchenwald, 18 died by 4 December 1942. Three more prisoners are in the prisoners' infirmary because of various ailments. Twenty-two out of the 129 remaining are physically feeble, 3 are footsore with inflammations and swellings, 1 has lost his left arm, 1 has a deformed wrist, 3 have chilblains on their fingers. From among the prisoners shipped 100 are fit to work, that is two-thirds. Two percent are really (skilled) construction workers." Your comment is invited.

[Signature] MAURER

SS Obersturmfuehrer, Chief Department D II

TRANSLATION OF DOCUMENT NO-2031
PROSECUTION EXHIBIT 341

CIRCULAR ORDER OF HIMMLER, 6 JANUARY 1943, CONCERNING
ORDER TO POHL AND CHIEF OF SECURITY POLICE AND SD, TO
ESTABLISH A SPECIAL CAMP FOR CHILDREN AND ADOLESCENTS
IN LUBLIN OR AUSCHWITZ

Field Command Post, 6 January 1943

Reich Leader SS

RF/Dr.

Journal Number 39/45/43g

[Stamp]

SECRET!

Personal Staff Reich Leader SS

Record Section

File No: SECRET / 522

g 227

SS ORDER

1. To the Higher SS and Police Chiefs in Russia
2. To the Special Commissioners of the Reich Leader SS for Anti-Guerilla Warfare
3. To the Chief of the Regular Police

[Initial] W

4. To the Chief of the Security Police and SD
5. To the Chief of the Personal Staff of the Reich Leader SS
6. To the Chief of the SS Economic Administrative Main Office
In operations against guerilla troops, men, women, and children suspected of guerilla activities, will be rounded up and shipped to the camps in Lublin or Auschwitz.

The Higher SS and Police Chiefs will arrange the shipments with the chief of the Security Police, the chief of the SS Economic and Administrative Main Office and the Inspector of Concentration Camps. The chief of the SS Economic and Administrative Main Office, in agreement with the chief of the Security Police and SD, suggests the establishment of collective camps for children and adolescents in Lublin. In these camps a racial and political examination will take place. Racially worthless adolescents, male and female, will be assigned as apprentices to the economic enterprises of the concentration camps.

Children will have to be brought up. This will be done by teaching them obedience, diligence, unconditional subordination, and honesty towards their German masters. They will do sums to one hundred, learn to recognize traffic signs, and be prepared for their special occupations as farm workers, locksmiths, stonemasons, joiners, etc. The girls will be trained as farm workers, weavers, spinners, knitters, and similar jobs.

[Signed] H. HIMMLER

Certified copy.

[Signed] J. MEINE
SS Obersturmfuehrer

TRANSLATION OF DOCUMENT 858-PS
PROSECUTION EXHIBIT 153

ORDER OF FRANK TO CONCENTRATION CAMPS, 7 JANUARY 1943,
CONCERNING PROPERTY OF DECEASED PRISONERS

Copy

Berlin, 7 January 1943

The Chief of the SS Economic and
Administrative Main Office

A II/2a/420/12.42/Ba/Scho.

To be distributed to—

Concentration Camps Natzweiler	3 copies
Dachau	3 copies
Sachsenhausen	3 copies
Buchenwald-Weimar	3 copies
Flossenbuerg	3 copies
Gross-Rosen	3 copies
Mauthausen	3 copies
Ravensbrueck	3 copies
Neuengamme	3 copies
Niederhagen-Wewelsburg	3 copies
Auschwitz	3 copies
Gusen	3 copies

SS Special Camp	“Hinzert” Hermeskeil	3 copies
	Meringen	3 copies
Prisoners of War Camp	Lublin	3 copies
Penal Camp	Danzig-Matzkau	3 copies
Penitentiary	Straubing	3 copies
Division D	Oranienburg	10 copies

The Chief of the Security Police and SD, Berlin SW 11,
Prince Albrechtstr.8 5 copies
SS Economic and Administrative Main Office 15 copies
Reserved 9 copies

Subject: Property of deceased prisoners.

Rescinding all decree and ordinances issued up to this date, I decree the following:

I. General

The property of deceased prisoners shall be sent, as before, to the respective relatives, except in the case of Polish and Jewish prisoners and of prisoners from the former Soviet territories.

II. Property of deceased or discharged prisoners which cannot be disposed of:

1. *Cash.* Cash shall be deposited as formerly to account H 10 with the administrative offices of concentration camps. It shall be transferred at the end of each quarterly period, that is on January 10, April 10, July 10, and October 10 to division D, Office Stadtparkasse Oranienburg, Account 426.

2. *Textiles (article of clothing), leather articles, suitcases.* Left-over articles shall be given by the concentration camps to prisoners without funds on their discharge. Unusable articles shall be transferred to the prisoners' repair shops for further use, or sent to salvage.

3. *Valuables and other articles.* Concentration camps shall return a list of valuables and other articles on hand, to Division D on 20-I-1943 in conformity to the following example:

Example

Date.....

Concentration Camp Sachsenhausen

Summary of valuables and other articles on hand.

Consecutive No.	Quantity (kilos, pieces)	Object
1	10 kg	Gold
2	5 kg	Silver
3	100 kg	Gold dollars
4	1,000 kg	Dollars in bills
5	50 kg	Pounds sterling in bills
6	100 kg	Watches
7	50 kg	Rings, gold
8	50 kg	Rings, silver
9		Fountain pens
10		Mechanical pencils
11		Spectacles
12		Cigarette cases
13		Cuff links
14		Bracelets
15		Chains, etc.

4. A special order will then be issued for the further disposal of valuables and other articles.

ACTING:

[Signed] FRANK

SS Brigadefuehrer and Brigadier General of the Waffen SS
Certified.

[Signature]

SS Hauptsturmfuehrer

Certified true copy.

[Signature]

SS Obersturmfuehrer

TRANSLATION OF DOCUMENT NO-1290
PROSECUTION EXHIBIT 60

CIRCULAR LETTER OF POHL TO CONCENTRATION CAMP COMMANDERS, 22 JANUARY 1943, CONCERNING WORKING TIME OF PRISONERS

Oranienburg, 22 January 1943

The Chief of the Economic and Administrative Main Office

D II/1 Az.: 21 Ma./F.

To the Commandants of the Concentration Camps

[Stamp]

Mail received on: 30 Nov. 1943

Distribution:

St. W.L. [initials]

Concerning: Working time of the
prisoner.

St. W.St.

St. W.R. B. DV.

St. W. V.

St. W. P. [illegible initial]

Registrar's office

Au. I, Au. II, Au. III, Bu, Da., Flo., Gr.Ro., Herzgb., Lu., Mau.,
Na., Neu., Rav., Sh., Stu., War., detention camp Bergen-Belsen,
Economist with the Higher SS and Police Leader Ostland, Riga.

By signal communications to: Chief of Offices W I

W III

W IV

W 5

W VI

Staff W care of SS Oberfuehrer
Baier

I should like to point out that the working time of prisoners, laid down by order, which amounts to 11 hours daily, had to be kept up also during the winter months. Exceptions are the detachments working outside the compounds (e.g., building operations) which in view of the shortness of the day and the early dusk resulting therefrom, have to return to the camp in time.

In contrast to that, those prisoners who perform their work in factory rooms, or in production sheds, have to be put to work from Monday till Saturday on an 11-hour schedule. Besides, in extraordinary cases of emergency, the prisoners should be set to work also on Sundays but only in the morning. The extensive operations which are being carried on today and which are important for our warfare and decisive for victory do not permit under any circumstances that the *net* daily working time amounts to less than 11 hours.

I request the commandants to take special care of this point. In some cases it even may become necessary to refrain from having those prisoners lined up with the rest for evening roll call. The numerical strength of these detachments is fixed. They report back to the camp in full strength later after having finished their work.

Up to 2 December 1943, all those detachments, are to be reported to the chief of division D, for submission to me, with which

a net working time of 11 hours daily cannot be kept up. Reasons for it have to be given.

[Signed] POHL

SS Obergruppenfuehrer and Lt. General of the Waffen SS

Copy to:

SS Economic and Administrative

Main Office

Staff W, c/o SS Oberfuehrer

Baier

For your information.

Verified.

[Signature illegible]

Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO-1523
PROSECUTION EXHIBIT 342

CIRCULAR LETTER BY GLUECKS TO CONCENTRATION CAMP COMMANDERS, 20 JANUARY 1943, URGING LOWERING OF DEATH RATE; AND ENCLOSURE, COPY OF LETTER OF GLUECKS TO POHL, 31 DECEMBER 1942 ABOUT NEW CATEGORIES OF PRISONERS TO BE SENT TO THE CAMPS

SS Economic and Administrative Main Office

Chief of Division D

Concentration camps

D I/I/Az.: 14 c 2/L/Ot.

Secret Journal No. 46/43

Oranienburg 20 January 1943

To the Camp Commandants of the Concentration Camps

Personal

Da., Sah., Bu., Mau., Flo., Neu., Au., Gr.-Ro., Natz., Nie., Stu.,
Rav., Herz. and prisoner of war camp Lublin.

[Handwritten:] [illegible] I, II, III.

Subject: Employment of prisoners in armament factories.

Reference: Decree of the Chief of the Security Police and the
SD-IV C 2-General No. 4001/43 g— of 31 January 42.

Appendix:

1

[Stamp] Secret

The attached copy is sent for your information. As I have already pointed out, every means must be used to lower the death rate in the camp.

Full utilization and tasty preparation of the rations at hand, as well as the increased reception of parcels makes this perfectly possible.

I hold the camp commandant and the chief of the camp administration personally responsible for exhausting every possibility of maintaining the physical strength of the prisoners. In connection with opinions on personnel qualifications to be given by me, I shall in future examine whether the responsible SS leaders have satisfactorily fulfilled their duty in this matter too.

[Signature] GLUECKS

SS Brigadefuehrer and Brigadier General of the Waffen SS

Copy

The Chief of the Security Police and of the SD

IV C 2—General No. 4001/43 g

Berlin SW 11, 31 December 1942

Prinz-Albrecht-Strasse 8

To the

Chief of the SS Wirtschafts-Verwaltungshauptamt. For attention: SS Obergruppenfuehrer and General of the Waffen SS Pohl or his deputy

Berlin-Lichterfelde-West

Unter den Eichen 129

Subject: Employment of prisoners in armament enterprises.

Reference: Letter there of 8-12-42—Ch./Po/Sa—VS 3952—an RF.

In answer to the letter addressed to the Reich Leader SS and chief of the German Police, a copy of which was sent to me by the Adjutant's Office of the Reich Leader SS, I have to inform you that in the meantime measures have been taken to increase the total number of prisoners in the concentration camps.

1. The antisocial prisoners to be handed over by the judicial authorities will be transferred at once to a concentration camp. Until now approximately 12,000 such prisoners have been named by the Reich Minister of Justice; and some of them have already been transferred to concentration camps, or are now being so transferred.

2. The subordinate agencies—as is already known—have orders to transfer 35,000 prisoners to the concentration camps by a simplified procedure immediately after their arrest.

3. Provision has been made for all Polish prisoners detained in the prisons of the Government General who must be held for some time and who are also to be transferred to the concentration camps at once.

As soon as these measures are completed I shall give other instructions. But I should like, however, to point out in this connection that because of the great number of deaths in the con-

centration camps, it was impossible to increase the total number of prisoners in spite of the increased numbers sent to them recently, and that with a constant or even increasing death rate, it is unlikely that an improvement can be effected, even by sending an increased number of prisoners.

Certified copy:

Acting For:

(Signature)

[Signature] OTTO
SS Untersturmfuehrer

TRANSLATION OF DOCUMENT NO-1285
PROSECUTION EXHIBIT 164

LETTER FROM POHL TO HIMMLER, 15 MARCH 1943, CONCERNING STATE OF HEALTH AND MORTALITY OF PRISONERS IN "PROTECTIVE CUSTODY"; UNDATED DRAFT OF LETTER FROM POHL TO MINISTER OF JUSTICE ON SAME SUBJECT

Registered

[Stamp]

Personal Staff Reich Leader SS
Records Section
Secret 72/21

The Chief of the SS Economic and Administrative Main Office
D III/File No. — 14 h (concentration camps) 3.43 Lg/Wy
Journal 261/47 secret

Berlin 15 March 1943
Lichterfelde-West
Unter den Eichen 126-135
Telephone local calls: 765261
Long distance: 765161

To the
Reich Leader SS
Subject: Prisoners in protective custody [Sicherungsverwahrte
Haeflinge]

[Handwritten]

Pohl: Give clear information to
the Minister of Justice.

Please let me have draft of
letter first.

Reich Leader,

According to concurring reports received from all camps occupied by prisoners in protective custody, the state of health and thus the working capacity of the prisoners sent in by the administration of Justice is catastrophic. In all the camps a loss of

between at least 25-30 percent is to be reckoned with and then this number is only reached if the prisoners are treated with consideration for a greater length of time. The camp Mauthausen-Gusen constitutes an exception; here the working in capacity and also the mortality of prisoners in protective custody is on a considerably higher level. One can definitely assume that Mauthausen received the worst material.

In the subordinate concentration camps according to the census of 1 March 1943—till now there were 10,191 prisoners in protective custody of which 7,587 were assigned to the concentration camp Mauthausen-Gusen. From these the deaths totalled 3,853; 3,306 of them died in Mauthausen-Gusen.

The reason for the increased incapacity for work and mortality must presumably be, that the many prisoners in protective custody [S. V. Haeflinge] who have been in prisons for years are suffering from physical debility owing to the transfer to a different milieu, so that in spite of all efforts death during labor assignment and sojourn in the open air cannot be retarded.

The consequences are especially unfavorable as a great number of tuberculosis patients were also delivered.

[Signature] POHL

SS Obergruppenfuehrer and Lt. General of the Waffen SS
[Initialed] H.H.

[By letter of 25 March 1943, secret, Himmler's adjutant Rudolf Brandt asks Pohl to submit draft of a "clear" report to the Reich Minister of Justice. By letter of 10 April 1943, secret, to Brandt, Pohl submits the following draft for Himmler's approval]

[Stamp]

Personal Staff
Reich Leader SS
Records Section
Secret 72/21

Draft

The Chief of the SS
Economic and Administrative
Main Office

Berlin,

To the
Reich Minister of Justice
Dr. Thierack
Berlin
Dear Herr Reich Minister!

I have had the camp commandants submit reports to me concerning the state of health of *prisoners in protective custody* taken over by the concentration camps.

The following picture is derived from the census dated 1 April 1943:

1. 12,658 prisoners in protective custody were transferred to concentration camps.
2. 5,935 of these died.
3. 6,723 present strength on 1 April 1943.

The shockingly high mortality figures are due to the fact that the prisons transferring them have literally released inmates who are in the worst possible physical condition, and who are afflicted with every possible disease.

The observations and reports of the camp doctors show unequivocally that in spite of all medical efforts the physical debility and death of the prisoners cannot be retarded. A hearty active labor assignment as is expected from the concentration camp prisoners in the munition works, is impossible with a sapped, weak body.

I do not wish to support a quarantine station in the concentration camps, because I need every space for healthy workers. The armament work assigned to the concentration camps by the Fuehrer can only be executed by laborers who are in perfect health.

I beg you, Herr Reich Minister, to support me in this matter, and to order that only healthy protective custody prisoners who are completely capable of work be sent to the concentration camps.

SS Obergruppenfuehrer and General of the Waffen SS

[By letter of 16 April 1943, secret, Brandt informs Pohl that Himmler approved the draft.]

TRANSLATION OF DOCUMENT NO-1291
PROSECUTION EXHIBIT 95

CIRCULAR LETTER, 29 JUNE 1943, ANNOUNCING CHANGE OF
NAME OF CAMP BERGEN-BELSEN FOR TACTICAL REASONS

SS Economic and Administrative Main Office

Chief of Division D, Concentration Camps

D I / Kz. : 14 a 12/L/Ot.

Oranienburg, 29 June 1943

[Stamp]

Received: 1 July 1943

Distribution:

ST.W.L. for the files
ST.W.ST.
ST.W.R.
ST.W.V.
ST.W.P.
Registrar's Office

To the Commandants of the Concentration Camps
Da., Sah., Bu., Mau., Flo., Neu., Au., Gr.-Ro., Natz., Stu.,
Rav., Herz., Ri., Lub., and Civ. Int. Camp Bergen-Belsen,
to the Chief of the SS-WVHA, Berlin-Lichterfelde-West,
with 1 copy each for the
Chiefs der Amtsgruppen A, B, C, and W,
Chiefs der Aemter A I, B I, B II, B III
To the Chief of the Security Police and the SD Berlin, SW 11,
with 1 copy each for office IV C 2, and Office V
Subject: New postal address of the civilian internment camp
Bergen-Belsen.
Reference: Our decree — D I / Az.P. 14 a 12/L/S. Secret
Journal No. 651/43 of 10 May [19] 43.
Appendix: None.

[Stamp] REGISTERED

According to information received from the chief of the Security Police and the SD, the term: "Civilian Internment Camp Bergen-Belsen" must be replaced, for tactical reasons by the term "Staging Camp Bergen-Belsen."

This change is necessary because, according to the Geneva Convention, civilian internment camps must be open to inspection by International Commissions.

The new address for postal shipments and shipments of sundry items [Stueckgueter] to the camp Bergen-Belsen is: Headquarters, Staging Camp Bergen-Belsen *in Bergen-Belsen*, District Celle.

For railroad car shipments, "Camp Railroad Station" is to be added to the address.

Acting

[Signature] LIEBEHENSCHER
SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO-599
PROSECUTION EXHIBIT 63

FILE NOTE BY POHL, 7 SEPTEMBER 1943, ON CONFERENCE WITH
GEORG LOERNER AND OTHERS, CONCERNING TAKING OVER
OF LABOR CAMPS IN LUBLIN DISTRICT

Appendix 4
Copy

Chief of the SS Economic and Administrative
Main Office

D II/I file: No. 29 Ma./F.

Diary No. 407/43 Secr.

Berlin, 7 Sep. 1943

SECRET!

Note for file.

Subject: Taking over of Jewish labor camps from SS and Police Leaders in the Government General.

In connection with the discussion with SS Obergruppenfuehrer Krueger on 3d inst., a conference took place on the 7th inst. at the SS Economic Administrative Main Office. Present were SS Obergruppenfuehrer Pohl, SS Gruppenfuehrer Globocnik, SS Brigadefuehrer Gluecks, SS Brigadefuehrer Loerner, SS Obersturmbannfuehrer Schellin, SS Obersturmbannfuehrer Maurer, SS Sturm-bannfuehrer Florstedt, and SS Obersturmfuehrer Dr. Horn.

The following points were agreed upon:

1. The approximately 10 labor camps of the SS and Police Chief existing in the district of Lublin will be taken over by the SS Economic Administrative Main Office as branch camps of concentration camp Lublin. When taken over, the SS Economic Administrative Main Office will be responsible for them, supervise them, and immediately subordinated to SS Sturmbannfuehrer Florstedt, who will be in charge of security and orderly management.

2. On being taken over by the SS Economic Administrative Main Office (Amtsgruppe D) the inmates of these labor camps will become concentration camp prisoners. Workshops which have been or will be erected by Osti in these camps, will have these prisoners assigned against payment of prisoners' wages that will flow into the Reich Exchequer.

All expenses for these prisoners will be met by the Reich.

3. Apart from these approximately 10 labor camps in the district of Lublin, all labor camps in the Government General are to be taken over by the SS Economic Administrative Main Office in the interest of a general clean-up. SS Sturmbannfuehrer Florstedt will be made responsible for the taking over of these camps into the scope of duty of Amtsgruppe D of the SS Economic and Administrative Main Office. About details he will confer with Obersturmbannfuehrer Schellin, SS Obersturmbannfuehrer Maurer and SS Obersturmfuehrer Dr. Horn. First of all he will ascertain as quickly as possible the number and locality of the camps, the number of inmates as well as of the guards and the nature of the camps' production; then he will get into contact with the mentioned leaders. It should be endeavored to dissolve camps with a small number of inmates, non-war-essential production, not decisive for victory.

4. The participants of this conference realize that the taking over of all these labor camps by the SS Economic Administrative Main Office (division D) will be possible only if the guards detailed at present for these camps (police forces and Askaris) will remain there and be subordinated to the SS Economic Administrative Main Office for the duration of these camps, and taken over by this office, as far as they are members or possible candidates of the SS.

SS Gruppenfuehrer Globocnik declared that this was a matter of course and that SS Obergruppenfuehrer Krueger would of course agree to it.

[Signed] POHL

SS Obergruppenfuehrer and Lt. General of the Waffen SS

TRANSLATION OF DOCUMENT 1469-PS
PROSECUTION EXHIBIT 165

REPORT BY POHL TO HIMMLER, 30 SEPTEMBER 1943, ON DEATHS
IN THE CONCENTRATION CAMPS, AND HIMMLER'S ANSWER,
8 OCTOBER 1943

Berlin, 30 September 1943

Lichterfelde-West

Unter den Eichen 126-135

Telephone: Local 765261

Long distance 765101

The Chief SS Economic and Administrative Main Office

Ch.Po/Ha.

S No.933/43

Reich Leader SS

Berlin

Subject: Deaths in concentration camps.

Reference: None

Enclosures: 3

Secret

Reich Leader:

Although in the month of December the mortality rate was still approximately 10 percent, in January 1943 it fell to 8 percent and continued to fall.

This reduction in the mortality rate is due primarily to the fact that the hygienic measures which have long been demanded have now been carried out, at least to a larger extent. Furthermore, it has been ordered in the field of nutrition that one-third of the food, raw and properly chopped, be added shortly before distribu-

tion, to the cooked food. Cooking too long has been avoided. Supplementary rations of sauerkraut and similar foods have been issued. In regard to clothing, it has been ordered that the prisoners may keep their coats on in the winter, insofar as their work permits. Unnecessary prolongation of roll calls has also been avoided. Permitting prisoners to receive food shipments individually has had a favorable effect.

The experiments with the distribution of yeast preparation were also favorable.

The above measures were aided by the fact that selected prisoners were incorporated in a special cooking course in the training kitchen at Dachau. It is intended to conduct a new cooking course in the near future.

Two tables [charts] are enclosed.

1. Comparison of deaths in the second half of 1942 with the first half of 1943—this comparison shows that the over-all average of the second half of 1942 was 9.89 percent while the over-all average of the first half of 1943 was only 5.72 percent.

2. Deaths in the month of August 1943—since January 1943 the death rate has fallen steadily, so that in the month of August it was only 2.09 percent.

A graph is also enclosed, illustrating the figures for the Sachsenhausen concentration camp extremely well. Sachsenhausen contains 26,500 people, 194 cases of death or 0.73 percent. Similar graphs could be obtained for all the camps.

Although when bad weather begins, an increase in the death rate must be expected, it is nevertheless certain that it will no longer exceed five or six percent.

In Stutthof also, the death rate for the month of August 1943 fell to 3.45 percent while in the previous month it was still 5.69 percent. Only in the Lublin concentration camp did the percentage figures rise again to two or three percent. It is to be expected that when the planned hygienic measures are carried out the mortality figures here will also no longer differ from those elsewhere.

Heil Hitler
[Signed] POHL
SS Obergruppenfuehrer

[Stamp]
received 4 Oct 1943
38/133/43g

8-4

SS Economic and administrative Main Office
Office D/III

Enclosure I

Comparison of death cases in the concentration camps, second half of 1942 and first half of 1943.

1942				1943			
Month	Average no. of Inmates	Death Cases	Percent	Month	Average no. of Inmates	Death Cases	Percent
July-----	98,000	8,329	8.50	January -	123,000	9,839	8.
August----	115,000	12,217	10.62	February_	143,100	11,650	8.14
September--	110,000	11,206	10.19	March---	154,200	12,112	7.85
October---	85,800	8,856	10.32	April----	171,000	8,358	4.71
November--	83,500	8,095	9.69	May-----	203,000	5,700	2.80
December--	88,000	8,800	10.	June----	199,500	5,650	2.83

Over-all average 96,770, or 9.89 percent.

Over-all average 165,600, or 5.72 percent.

Oranienburg, 22 September 1943.

Field Command Post, 8 October 1943

[Stamp]

Personal Staff of Reich Leader SS

Document administration

No. Secret 64

The Reich Leader SS

Journal No. 38/133/43g

RF/Bn

Subject: Deaths in concentration camps.

Reference: Your letter of 30 September 1943 — Ch./Po/Ha-VS

No. 933/43

SECRET

Dear Pohl:

I received your report of 30 September 1943 concerning death in concentration camps and can only more express to you and your co-workers my thanks and my gratitude for the result achieved. I am convinced that the latest difficulties will also decrease to the extent when sewerage and better sanitary installations are possible.

Heil Hitler!

Your

[Signed] H. H.

Enclosure II
Death cases for the month of August 1943

[Stamp]

Personal staff of Reich Leader SS
Records Section
No. Secret 67

Concentration camps	Average number of inmates	Deaths	Percent	Percent previous month	Plus or minus percent
Dachau	17,300	40	0.23	0.32	-0.09
Sachsenhausen	26,500	194	.73	.78	-.05
Buchenwald	17,600	118	.67	1.22	-.55
Mauthausen-Gusen	21,100	290	1.37	1.61	-.24
Flossenbuerg	4,800	155	3.23	3.27	-.04
Neuengamme	9,800	150	1.53	2.14	-.61
Auschwitz (men)	48,000	1,442	3.00	2.96	+.04
Auschwitz (women)	26,000	938	3.61	5.15	-1.54
Gross-Rosen	5,000	76	1.52	2.69	-1.17
Natzweiler	2,200	41	1.87	1.63	+.24
Bergen-Belsen	3,300	4	.12	.39	-.27
Stutthof (men)	3,800	131	3.45	5.69	-2.24
Stutthof (women)	500	1	0.20	-----	+.20
Lublin (men)	11,500	882	7.67	4.62	+3.05
Lublin (women)	3,900	172	4.41	2.01	+2.40
Ravensbrueck (men)	3,100	26	.84	.76	+.08
Ravensbrueck (women)	14,100	38	.27	.24	+.03
Riga	3,000	1	.03	.33	-.30
Herzogenbusch	2,500				
[Hertogenbosch]					
Total	224,000	4,699			

percent
Over-all average for August 1943.....2.09
Over-all average for July 1943.....2.23

[Decrease] -0.14

[Stamp]

Personal Staff of the Reich Leader SS
Records Section
No. Secret 64

SS Economic and Administrative Main Office
Office D/III

TRANSLATION OF DOCUMENT NO-020(a)
PROSECUTION EXHIBIT 81

LETTER FROM POHL TO HIMMLER, 5 APRIL 1944, SHOWING NUMBER
OF CAMPS IN GERMANY, THE EAST, AND THE NETHERLANDS;
AND HIMMLER'S ANSWER, 22 APRIL 1944

The Chief of the SS Economic-Administrative Main Office
D 11/1 az.: 21 Ma./F.
Diary No. 237/44 Secret

Berlin, 5 April 1944
Lichterfelde-West
Unter den Eichen 126-135

Secret Reich Matter
2 copies—1st copy

To the Reich Leader SS
Berlin SW 11
Prinz Albrechtstr. 8
Subject: Concentration and labor camps.
Enclosure: 1 Map *
Reich Leader:

I submit herewith a map of the Reich territory with the Government General, the Eastern Territories [Ostland], and the Netherlands, on which all the concentration and labor camps are marked, as of 31 March 1944. There exist at present—

Reich territory	13 concentration camps
Government General	3 concentration camps
Eastern Territories [Ostland]	3 concentration camps
The Netherlands	1 concentration camp

—
Total 20 concentration camps

In addition the following labor camps are maintained:

Reich territory	130 labor camps
Government General	3 labor camps
Eastern Territories [Ostland]	30 labor camps
The Netherlands	2 labor camps

—
Total 165 labor camps

[Handwritten] During Eicher's time there were altogether 6
camps! NOW: 185!

Heil Hitler!
[Signed] POHL

SS Obergruppenfuehrer and Lt. General of the Waffen SS

* Not included in the document when submitted in evidence.

M 1909/44 geh. Rs.

Field Command Post 22 April 44

Reference: Your communication of 5 April D II/1 Az. 21 Ma./F.

Diary Nr. 237/44 secret

My dear Pohl,

Very cordial thanks for your letter of 5 April with the map of the concentration camps. By just such examples one can see how our things have grown, not lastly because of your efforts.

Heil Hitler!

Yours truly,

[Initialed] H. H.

TRANSLATION OF DOCUMENT NO-021
PROSECUTION EXHIBIT 357

LETTER BY POHL TO HIMMLER, 5 APRIL 1944, CONCERNING SECURITY MEASURES IN AUSCHWITZ; HIMMLER'S ANSWER, 9 MAY 1944

The Chief of the SS Economic and Administrative Main Office

D II/1 Az.: 27/2 Ma./F.

Journal No. 236/44 secret

Top Secret!

2 copies—1st copy

Berlin, 5 April 1944

Lichterfelde-West

Unter den Eichen 126-135

Telephone: local 765261

long distance 765101

To the

Reich Leader SS

Berlin SW 11

Prinz Albrechtstr. 8

Subject: Security measures in Auschwitz.

Reference: Your letter of 24 March 44

Diary No. 38/32/44 secret Bra/H.

Enclosures: 2 plans *

Reich Leader!

The extent and the high number of inmates of the Auschwitz concentration camp induced me already last October to suggest a three way division of the camp. After your approval, it has been carried out as of 10 November 1943. Therefore there are now 3 concentration camps in Auschwitz.

As to the security measures taken for case A, I report as follows:

* Id.

1. *Camp I* includes the compact camp for men with a present strength of approximately 16,000 inmates.

It is surrounded with a fence and by barbed wire which, as in all concentration camps, is electrically charged. Besides there are watch towers mounted with machine guns.

Camp II is situated about 3 km. from camp I. It accommodates 15,000 male and 21,000 female inmates. Of a total of 36,000 inmates approximately 15,000 are unable to work. Camp II is also surrounded by an electrically charged wire fence; there are also watch towers.

Camp III includes all subsidiary camps attached to industrial establishments in Upper Silesia which, however, are located at considerable distances from each other. At present it consists of 14 subsidiary camps with a total number of approximately 15,000 male inmates. These labor camps are surrounded by the usual wire fence and also have watch towers. The largest of these labor camps is in Auschwitz attached to the I.G. Farbenindustrie A.G. It has at present 7,000 inmates.

The other subsidiary camps have a considerably smaller strength.

The following is a summary of the situation:

Auschwitz I	16,000 men	
Auschwitz II	15,000 men.....	21,000 women
Auschwitz III	15,000 men	
	<hr/>	<hr/>
	46,000 men	21,000 women
		Total
		67,000

Camp II has the largest number of inmates whereby, however, it must be considered that of the total of 36,000 inmates, 21,000 are women.

2. Of the total number of 67,000 inmates those in the subsidiary camps and those hospitalized have to be deducted if the question of a threatening revolt or escapes in Upper Silesia is to be considered.

Of the total number, 67,000 inmates; 15,000 are to be deducted, those in subsidiary camps (camp III), and the number of the hospitalized and disabled, 18,000; so that practically 34,000 inmates have to be reckoned with. In case A this would mean danger to Auschwitz if security measures were insufficient.

3. 2,300 SS men are available to guard the inmates of camp I and II, including the staff of camp headquarters who are to be detailed in case A. In addition there are 650 guards available for the subsidiary camps of camp III.

SS Obergruppenfuehrer Schmauser keeps a company of police

of about 130 men, in readiness by the middle of this month. This company shall, if necessary, be used for additional security of camp II. It will therefore be billeted in the close vicinity of this camp.

4. Apart from the direct security of camp I and II by manned watch towers and electrically chargeable wire fences, a line of bunkers has been constructed as an *inner* ring which will be manned by SS men. On the enclosed map, this line of bunkers is marked in red.

In case A, as a further security measure, the *outer* ring will be formed to be manned by the Wehrmacht. On the enclosed map, this outer ring can be seen on the map indicating the field positions with the parts of the Wehrmacht earmarked for the operation. Inside the outer ring is also the labor camp at the I.G. Farbenindustrie A.G., with at present 7,000 inmates and the entire factory of the I.G. Farbenindustrie A.G.,* in which in addition to our inmates, approximately 15,000 people are employed. The deployment [Einsatz] of the Wehrmacht was decided upon a few weeks ago in Auschwitz by SS Obergruppenfuehrer Schmauser and the commanding general of the VIII army corps, Lt. General [Cav] von Koch-Erbach.

I further enclose an alert plan according to which the SS post commander in Auschwitz is able to alert directly all stations concerned by telephone, wireless, or teletype in the shortest possible time.

Further, it has been taken care that a large scale search be carried out under the direction of the Criminal Police Office Katowice in case of mass escapes.

The Luftwaffe units stationed in Auschwitz in the strength of 1,000 men are available provided the alert does not coincide with an air raid. These Luftwaffe units can however not absolutely be counted upon. In drafting the plan of operation [Einsatzplan] this has been taken into consideration.

Very soon exercises will be carried out with all agencies concerned.

I believe, Reich Leader, that these preparations and security measures will be sufficient in case A.

Heil Hitler!

[Signed] POHL

SS Obergruppenfuehrer and Lt. General of the Waffen SS

The Reich Leader SS
Personal Staff

* Case of United States vs. Carl Krauch, et al., vols. VII and VIII.

Diary No. 1924/44

-H-

Field Command Post, 9 May 1944

To

SS Obergruppenfuehrer Pohl

Berlin

Subject: Security measures in Auschwitz

Your reference: Your letter of 5 April 1944, D II/1 Az./27/2

Ma/F. Journal No. 236/44 secret.

Dear Obergruppenfuehrer!

The Reich Leader SS approves of the security measures in Auschwitz, indicated in your letter of 5 April 1944.

Heil Hitler!

[Initial] Yours R.B. [Rudolf Brandt] *

SS Standartenfuehrer

TRANSLATION OF DOCUMENT NO-1558
PROSECUTION EXHIBIT 109

CIRCULAR OF GLUECKS, 9 MAY 1944, ORDERING THAT REPORTS
ON TRANSFERS AND DEATHS OF PRISONERS DELIVERED BY COL-
LECTIVE SHIPMENT FROM THE EAST BE DISCONTINUED

SS Economic Administrative Main Office
Chief of Amtsgruppe D, Concentration Camps
D I/File Number: 14c 3/Ot/S.-

Oranienburg, 9 May 1944

[Stamp]

REGISTERED

To:

Camp Commanders of the Concentration Camps of

Dachau, Sachsenhausen, Buchenwald, Mauthausen, Flossen-
berg, Neuengamme, Auschwitz I-III, Gross-Rosen, Natzweiler,
Stutthof, Ravensbrueck, Herzogenbusch [Hertogenbosch],
transient camp Bergen-Belsen.

Leader of Group D Riga with 1 copy each for the concentration
camps Riga, Kauen [Kovno], and Vaivara,

SS Economist East, Krakow, with 1 copy each for the concentra-
tion camps Lublin, Warsaw, and Plaszow.

Subject: Persons in Protective Custody from the Occupied
Eastern Territories.

Reference: Chief of the Security Police and the SS IV B 2a.
Diary No. 2257/44 (IV D 5 old) dtd 26 April 1944

* Defendant in case of United States vs. Karl Brandt, et al., vols. I and II.

Enclosures: None

The chief of the Security Police and SD has, by the letter cited in reference, given orders that—

1. Persons belonging to eastern nations and delivered by collective shipment from the East into a concentration camp will not be treated according to the directives published for the Reich territory as far as processing is concerned.

2. The usual reports of changes affecting individual prisoners will particularly be discontinued at once.

3. Registration of these prisoners will take place *only* in the concentration camp itself.

Notification of transfers, deaths, and other changes affecting these prisoners will therefore be discontinued.

All prisoners transferred to concentration camps from the East by collective shipment will be dealt with according to the above decree.

Report on changes affecting Eastern workers inducted by offices of the State police should continue to be prepared in the usual way.

[Signature] GLUECKS

SS Gruppenfuehrer and Major General of the Waffen SS

TRANSLATION OF DOCUMENT NO-1990
PROSECUTION EXHIBIT 73

REPORT BY BURGER TO GEORG LOERNER, 15 AUGUST 1944, ON
PRISONERS' STRENGTH, EXPECTED NEW ARRIVALS, AND INVENTORY OF PRISONERS' CLOTHING

Economic and Administrative Main Office

Division D, Concentration Camps

D IV - 189 - 8.44 - Bu./Schm. Journal No. 199/44 Secret

Oranienburg, 15 August 1944

[pencilled] G 18.18

[Stamp]

Top Secret

To the

Chief of Division B

SS Gruppenfuehrer and Major General

of the Waffen SS Loerner

Berlin-Lichterfelde-West

Unter den Eichen 126-135

Subject: Prisoners' strength report, inventory of prisoners' clothing "G" and "Z", and available stocks "G".*

* The letter "G" stands for Gefaengnis—prison (clothing), and the letter "Z" for Zivil—civilian (clothing).

Reference: Telephone call of SS Sturmbannfuehrer Waschkau
of 15 August 1944.

With reference to the above-mentioned telephone call I report the prisoners' strength as per 1 August 1944 and that of the new arrivals already announced to us, as well as the stock of clothing as per 15 August 1944, as follows:

1. The strength on 1 August 1944 was	
a. male prisoners	379,167
b. female prisoners	145,119
	<hr/>
	524,286

In addition to this there are the following new arrivals, already announced

1. From the Hungary Program (Jewish Campaign [Aktion])	90,000
2. From Lodz (Police prison and ghetto)	60,000
3. Poles from the Government General	15,000
4. Convicts from the Eastern territories	10,000
5. Former Polish officers	17,000
6. From Warsaw (Poles)	400,000
7. Current arrivals from France	20,000
approximately 15,000 to	<hr/>
	612,000

A large number of the prisoners is already on its way and will arrive during the next days for delivery to the concentration camps.

2. Inventory of the male prisoners' clothing in the possession of the prisoners or the concentration camps.

	"G" [prisoners'] clothing	"Z" [civilian] clothing	Available stocks of Division D in Sachsenhausen and Buchenwald
cloth jackets.....	232,024	168,987	70,509
cloth trousers.....	184,338	121,581	72,220
cloth coats.....	162,809	102,657	19,990
cloth caps.....	257,509	65,669	27,610
drill [Drillich] jackets.....	229,840	-----	2,930
drill trousers.....	243,366	-----	6,865
shirts.....	358,871	331,467	5,500
pants.....	457,232	167,022	1,000
woollen waistcoats.....	169,462	19,605	32,501
cloth waistcoats.....	-----	38,847	-----
socks.....	328,041	9,517	174,186
foot cloths.....	96,615	-----	30,240
short socks.....	82,739	-----	2,200
ear protectors.....	97,567	9,640	440
ear bonnets.....	47,845	12,000	206,220
handkerchieves.....	20,941	77,205	17,000
mittens.....	74,570	-----	145,400
gloves.....	-----	9,177	-----
kit-bags-paper.....	48,386	-----	-----
kit-bags-cloth.....	89,396	-----	-----
aprons.....	6,267	4,796	-----
working jackets.....	-----	2,602	-----
working trousers.....	-----	2,594	-----
working suits.....	-----	4,998	-----
lace shoes-leather.....	47,406	16,979	-----
lace shoes with wooden soles.....	243,128	-----	977
lace boots with buckles and wooden soles.....	10,041	-----	3,539
slippers with wooden soles.....	119,259	-----	-----
boots, long (leather).....	2,192	3,233	-----
wooden clogs.....	13,520	-----	-----
body-belts.....	9,788	-----	-----
woollen shawls.....	-----	9,770	-----
boots with wooden soles.....	389	-----	-----
shoes, leather.....	1,635	-----	-----
small kit-bags.....	21,992	-----	-----

3. Inventory of the female prisoners' clothing in the possession of the prisoners, or of the concentration camps.

	"G" [prisoners'] clothing	"Z" [civilian] clothing	Available stocks of Division D in Ravensbrueck
winter dresses.....	38,064		2,220
summer dresses.....	55,638		
dresses Z.....		141,963	
skirts Z.....		34,796	
blouses Z.....		36,262	
winter jackets.....	42,183		4,840
coats Z.....		32,802	
vests.....	35,418	210,808	14,680
night dresses.....	9,194	4,940	
winter slacks.....	48,246		14,010
summer slacks.....	35,781		6,690
panties Z.....		79,687	
slips.....	36,878	938	3,490
women's jackets Z.....		8,041	
women's stockings.....	41,677	58,711	6,199
suspenders.....	13,676	3,322	2,622
scarves.....	32,270	60,643	
woollen vests.....	2,066	74,808	13,290
brassieres.....		7,620	
paper for sanitary towels.....	33,400		186,798
cloth for sanitary towels.....	64,041		9,755
sanitary girdles.....	23,826		807
handkerchieves.....	38,553	14,562	152,100
aprons.....	4,436	13,636	
women's caps.....	9,488		5,600
mittens.....	9,294		
gloves Z.....		5,931	
lace shoes, leather.....	2,392	14,348	
low shoes, leather.....	20,442		
lace shoes with wooden soles.....	33,967		
slippers with wooden soles.....	40,092		
wooden clogs.....	7,272		
kit-bags.....	19,963		

4. Owing to the prisoners' present total strength of 524,286 and the announced new arrivals of 612,000 prisoners, who are already on their way here, I am unable to provide all those who will arrive unexpectedly with sufficient clothing, in spite of the last allocation of extra quotas for spinning yarn and textiles by the Reich Ministry of Economics for the Hungary Program.

In this connection I should like to mention that the civilian clothing, obtained up to now from the Hungary program, has

already been completely disposed of and that only very few pieces, fit for wear, can yet be expected especially from the Polish campaign [action] (Warsaw).

The civilian clothing distributed up to now, especially underwear and shoes, will have to be replaced very soon because of their inferior quality. It can only be worn for a very limited time in comparison with new pieces.

Moreover, it must be considered that the clothing and shoes of the prisoners employed in the categories A and B "Special Measures" wear out far more quickly, and the set time of wear must be considerably reduced.

For the above-mentioned reasons I ask you, Gruppenfuehrer, to arrange for the necessary steps to be taken at the Reich Ministry of Economics, to obtain once more extra quotas for spinning yarn and leather, so that the extraordinary high demand for prisoners' clothing will be guaranteed. It should be pointed out to the Ministry of Economics that up to now enormous quantities of rags from the useless civilian clothing, from the individual campaigns in Auschwitz and other camps, were delivered and placed at the disposal of the Reich Ministry of Economics, are being delivered.

[Signature] BURGER
SS Sturmbannfuehrer
Chief of Administration

[Handwritten]

of those appr.	387 000 men
and	225 000 women
	<hr/>
	612 000

TRANSLATION OF DOCUMENT NO-3793
PROSECUTION EXHIBIT 582

EXTRACTS FROM REPORT OF GERMAN SHALE OIL COMPANY, 4
DECEMBER 1944, TO WVHA, ON CONDITIONS IN CAMP BISINGEN

DEUTSCHE SCHIEFEROEL G.m.b.H.

Erzingen

near Balingen in Wuerttemberg

Telephone: 504,514 Balingen-Wuerttbg.
Bank account: Dresdner Bank Depka 12,
Berlin-Steglitz account No. 2300/20
District Savings Bank [Kreissparkasse]
Balingen-Wuerttemberg account No. 1955

Your reference No. Your letter dated Our reference No.

J/ - 3

[illegible handwritten mark]

Erzingen, 4 December 1944

[Handwritten, partly illegible]

P 13

XII

To:

SS Economic and Administrative Main Office
Staff W
Berlin-Lichterfelde-West
Unter den Eichen 135

[Stamp]

Received: 11 December 1944

Distribution:

St.W.L.

[illegible initial letters].....

[illegible initial letters].....

[illegible initial letters].....

[illegible]..... [illegible initials].....

Situation report

As already advised by Dr. Sennewald at the conference of 21 November 1944 at the office of Obergruppenfuehrer Pohl, all available means are being used, in order to complete Plants 2 (Bisingen); 4 (Erzingen-Nord); 8, and 9 (Dormettingen). The simultaneous withdrawal of the Speer transport columns will follow gradually. The DBHG is doing its best to put Plant 2 into operation before Christmas.

Rain with really *catastrophic* effects brought serious damage, as for example, a landslide at plant 4 where both of the two large containers for the *finished product* caved in *shortly before completion*. The installation sites and the roads are completely bogged.

There is no bombing damage to report; in this respect the weather conditions are favorable.

* * * * * * *

I have lately thoroughly inspected *camp Bisingen*, administered by SS Hauptscharfuehrer Pauli as camp commander, and I found *frightful conditions* prevailing there. At present I am still engaged in the investigation of all incidents, and can now give only the following short report:

The camp was occupied in the first days of October by 1,500 mostly Polish prisoners. It is situated on an extremely wet meadow; there are no pathways. The ground has become completely bogged; the wetness is almost beyond control. The hygienic

installations, which are of the most primitive kind, such as toilets, dispensary, and washrooms, are absolutely inadequate; further, they are too far apart, and hard to reach under these muddy conditions. Consequently, extreme filth and vermin are prevailing, and the health situation has become unjustifiable. On 1 December 1944 there were about *420 persons sick*, mostly from diarrhea, a general debility and weakness of the heart. Since the camp has been in operation, *233 deaths* are on record (*in 8 weeks!*); of these only 6 were shot while trying to escape, and 6 committed suicide. A graph is annexed.

The food is good; of that I have convinced myself by sampling and by thorough inquiry.

A delousing station is on point of completion. It is not in the camp, however, but about one-half kilometer away.

On 1 December 1944 the number of prisoners amounted to 1,655.

I am engaged in remedying the evils with the help of the bureaus concerned, in particular with the help of the OT and the DBHG, and in conjunction with the SS chiefs. However, I consider an *immediate inspection necessary by a suitable representative of division D.*

[Amtsgruppe D].

[Handwritten] X

Heil Hitler!

[Signature] JACOBI

SS Hauptsturmfuehrer

[Handwritten] 1 enclosure

EXTRACTS FROM TESTIMONY OF PROSECUTION WITNESS SS
DOCTOR KARL KAHR *

DIRECT EXAMINATION

MR. MCHANEY: Witness, your name is Karl Kahr?

WITNESS KAHR: Yes.

Q. You are a German national?

A. I am an Austrian citizen.

Q. You were born in 1914 at Fuerstenfeld, Austria?

A. Yes.

Q. Are you presently in American custody?

A. Yes.

Q. What is your profession?

A. I am a doctor.

Q. Were you a member of the SS?

A. Yes.

* Complete testimony is recorded in mimeographed transcript, 10 April 1947, pp. 173-207.

Q. When did you join the SS?

A. In 1940, that is in July, I joined the Waffen SS.

Q. And you acted as a doctor in the SS?

A. Yes.

Q. Did there come a time when you were assigned as a doctor to a concentration camp?

A. Yes.

Q. When was that?

A. That was in 1943, namely in January or February.

Q. And what concentration camp were you assigned to?

A. First of all it was Dachau and the camp at Dora.

Q. Which camp?

A. Dora.

Q. How long were you in Dachau, Witness?

A. I was at Dachau for nine months, and in 1944 I went to Dora.

Q. Did you go to Dora in January 1944?

A. I did not understand your question.

(The question was repeated to the witness by the interpreter.)

A. Yes.

Q. And how long did you stay at Dora?

A. Until Christmas, 1944.

Q. And were you subordinated in medical matters while you were in Dora?

A. In medical matters I was first under the garrison [camp] doctor of Buchenwald.

Q. What was his name?

A. Dr. Schiedlausky.

Q. And were you ultimately subordinated to Dr. Lolling of the WVHA?

A. Yes.

Q. Dr. Lolling was chief of Amt [office] D III in the WVHA?

A. Yes.

Q. Was Dora a subcamp [branch] of Buchenwald when you first arrived there in January 1944?

A. Yes.

Q. Was it ultimately—did it ultimately become a concentration camp in itself known as Nordhausen?

A. Yes.

Q. When did it become known as Nordhausen?

A. In autumn 1944.

Q. Was it not then centrally administered by the WVHA?

A. Well, the administration in itself was self-sufficient. However, it was subordinate to the WVHA.

Q. Now then, how big was Dora? How many inmates did it have when you first arrived there?

A. Ten thousand.

Q. And what was being done at Dora?

A. First of all quarry work was done in Dora, namely, subterranean tunnels were built. Then V- weapons [Vergeltungswaffe—retaliatory weapon] were produced.

Q. And what was produced?

A. The V- weapons.

Q. Now, under whose control was this construction and production work carried out?

A. The factory name was Mittelwerk.

Q. Is the name of Obergruppenfuehrer Kammler familiar to you?

A. Yes.

Q. Did Kammler have control over construction and production work in Dora?

A. Yes. He did.

Q. Was Kammler the chief of Amtsgruppe C of the WVHA?

A. I don't know which division C was but I know that Kammler was the chief of the office for construction.

Q. Now, will you tell us what living conditions you found when you arrived in Dora in January 1944; that is, living conditions of the inmates.

A. When I arrived in Dora in January 1944, I was horrified by the living conditions which I saw there and which prevailed for the inmates. In no way had any people been worried about the billets, nor did they worry about their clothing which they needed for their hard work, nor did they take care of any sanitary installations. Out of the 10,000 inmates at the time at least 7,000 of them had to live underground; that is, in these specially built tunnels. Only 3,000 of them had the possibility to see the sunlight in the camp and to live in barracks. In addition, it so happened that the inmates during the 12-hour shift had to work in the tunnels and had to spend their leisure time in a tunnel nearby. For the sick inmates, while I was there, there were only four barracks for the sick which had the very least equipment that could be expected so that due to the great and large number of sick inmates it was almost impossible to take care of these inmates. Furthermore, due to bad clothing and bad shoes they had great injuries which occurred while they were working on these pointed stones and the inmates were very badly fed. As they were very badly fed, they did not have good resistance to these diseases, so the infections on their legs were at a horrible extent. I myself was a doctor. During my activities prior to that I had never seen such infections. When I arrived there, I drew somebody's attention to those infections. I was

answered that there were higher things, and that it did not matter how many human beings would lose their lives in those mines. The first thing that was important was to carry out the construction program and only slowly by and by did I succeed with the help of the chief director or manager of the works to get better billets and also to improve the sick barracks so that only in the course of that year, perhaps in May or June, there was a decrease in the death rate and the sick rate; and only in May, perhaps or June, all the units could live in the barracks over there during the day. The food in that camp was the usual bad food which is known in the concentration camps and only those inmates who used to work in the armament factories there received a special allocation of food. However, the basic ration in itself was bad and consisted of, for the greatest part in the normal dish of [Eintopf] food, a lot of liquids.

Q. Doctor, let's go back just a moment. When you arrived, there were 10,000 inmates working at Dora, is that right?

A. Ten thousand were at the camp at that time. That is right.

Q. And what nationality were these inmates?

A. At that time all nations were represented in the camp who could be seen in the German concentration camps at the time.

Q. And were there any prisoners of war?

A. Prisoners of war? According to my recollection there were only a few Italian prisoners of war.

Q. Were there any Russian prisoners of war there?

A. There were also Russian prisoners of war there; however, they were not considered as prisoners of war but as concentration camp inmates.

Q. Were there many French prisoners at Dora?

A. Yes. There were.

Q. Approximately what proportion of the 10,000 would you say were French? Could you give any estimate?

A. I cannot give you a correct figure, because I do not remember all the figures. However, I can only add that out of the 10,000 concentration camp inmates, six to seven hundred of them were Germans and all the others were foreigners.

Q. You stated that 70 percent of these inmates had to sleep in the tunnels, is that correct?

A. Yes.

Q. Was it damp in those tunnels?

A. Those tunnels were damp, indeed, and there was frequently water along the walls.

Q. And where did the inmates sleep in those tunnels?

A. In those tunnels they slept on wooden cots.

Q. Did they have any blankets or coverings?

A. There were blankets. However, they were not sufficient to cope with the necessities of the damp air in the tunnels.

Q. Was there sufficient heat?

A. At the beginning it was cold in those tunnels, and later on when the factory got started there was an automatic heating system. However, that was in September 1944.

Q. Now, were they actually digging these tunnels into the hills?

A. Yes.

Q. And what sort of work did the inmates have to do?

A. The inmates had to do mining work, and some of them worked on certain production lines on the V-weapons.

Q. And what was the death rate when you arrived in Dora?

A. In January, towards the end of the month, the death rate came to 800 inmates for January.

Q. That would be approximately 8 percent per month, is that correct?

A. Yes.

Q. Now, of what were these prisoners dying? From what diseases?

A. These inmates often died of the diseases they brought along from other camps. In other words, the lung tuberculosis, which occurred very often. Furthermore, there were organic diseases which resulted from infections with typhus and spotted fever in other camps. And also, I myself saw inmates who, organically speaking, had no signs of disease but could often have died of malnutrition, because their bodies already showed certain signs of malnutrition.

Q. You say that prisoners were working for 12 hours a day?

A. Yes.

Q. And were there two shifts of workers?

A. Yes.

Q. Did some of these workers have to march from their working place to the points where they slept?

A. No—well, yes. Of course, they had to walk, but it was just a very short distance.

Q. Didn't there come a time when large groups of prisoners had to walk for as much as four hours to their working places?

A. Yes. However, that was not in Dora. In Dora the camp was right near their working place. That did happen in another camp which was quite near Nordhausen and which belonged to Dora.

Q. Well, in the case of these other camps did that mean that the prisoners therefore had only 3 or 4 hours' sleep a night because of this long walk to and from the place of work?

A. Yes. That is correct.

Q. Now, did Dora increase in size during the time you were there?

A. Yes. Dora increased in size. I do not have the exact figures, but I believe it increased to approximately 20,000 which I recall from my activities; and, of course, it could have been 25,000.

* * * * *

MR. MCHANEY: You stated that Forschner [Foerster (?)] and Schiedlausky and the other people to whom you complained said that irrespective of the conditions under which the inmates worked, the construction and production work at Dora would have to go forward, is that correct?

WITNESS KAHR: Yes. It is.

Q. And did Forschner tell you who had expressed that sentiment, that the work would have to go on in any event?

A. That was Kammler's and Pohl's opinion, and also the office in Berlin.

Q. Do you know him [Pohl], Witness?

A. Yes, I do.

Q. Do you see him in this dock over here? If you can't see the dock, you may stand up.

(Witness rises.)

A. I believe that is the gentleman over there.

Q. Will you indicate his seat, please?

A. He is at the corner, near the entrance.

Q. Is that in the first row?

A. Yes.

MR. MCHANEY: I will ask that the record show that the witness properly identified the defendant Pohl.

PRESIDING JUDGE TOMS: The record will so indicate.

MR. MCHANEY: We ask, where did you see the defendant Pohl?

A. I was introduced to him during the visit in Dora.

Q. When was that?

A. That must have been in autumn 1944.

Q. And did you try to report the miserable conditions in Dora to Pohl.

A. I did not have the opportunity to do so.

Q. Why not?

A. Pohl came to Dora with a large staff, and it was impossible for me to have a conversation with him because right after dinner he left Dora in a hurry. Therefore, it was impossible for me to approach him and deal with these matters.

Q. Did you make any effort to do so?

A. Yes, I did. I was called for dinner especially for that purpose.

Q. Was Dr. Lolling there with Pohl?

A. Not at the time.

Q. Did you ever talk to Lolling about the conditions in the camps?

A. No I did not.

Q. Did Pohl make an inspection of the camp?

A. The inmate camp itself? The answer is no. However, he did visit certain construction works.

Q. Did he not visit the places where the inmates were living and see the conditions under which they were living?

A. All I know is during that tour of inspection he saw the inmates while they were working at their working places—or at least he must have seen them. If he visited any other camp apart from Dora—and I am speaking about their living places in particular—I don't know.

Q. Did Kammler visit Camp Dora very often?

A. Kammler was in Dora several times.

Q. And was he informed about the living conditions there?

A. Yes. He was.

Q. Witness, I want to get this matter straight. When you submitted complaints about the living conditions there, did you get the response that nobody cared how many inmates died; that the main thing was to get this building project finished?

A. I did not quite understand your question.

Q. I said, when you made complaints about the living conditions in Dora, did you get the response that nobody cared how many inmates died; that the main thing was to get the construction project finished?

A. Generally speaking, that was the general opinion that prevailed there.

Q. Is the name Pook familiar to you, Witness?

A. Yes.

Q. Who was Pook?

A. Pook was the chief dentist in division, or Amtsgruppe, D.

Q. Now, Witness, are you informed about the collection of gold teeth of inmates in concentration camps?

A. Yes. I am.

Q. Do you know what was done with the gold from the teeth of deceased inmates?

A. I only know insofar that the gold had to be sent to Berlin.

Q. And to what office was it sent in Berlin?

A. According to my recollection it was sent to Amt D III. However, I do not know who received those teeth because I, myself, had nothing to do with the gold teeth.

Q. Do you know generally whether it was sent to the office of chief dentist in Amt D III?

A. I cannot tell you that for sure.

Q. But you do know that it was sent to Amt D III?

A. Yes. I do.

Q. Do you see Pook in the defendants' dock?

(Witness rises.)

A. Yes. I do.

Q. Where is he sitting, please?

A. He is sitting right against the wall, and he is third, right next to the door.

Q. Sitting where?

A. In the second row; he is third from the left, near the door.

MR. MCHANEY: I will ask that the record show that the witness properly identified the defendant Pook.

PRESIDING JUDGE TOMS: The record will so indicate.

* * * * *

MR. MCHANEY: Now Doctor, while you were at Dora, is it not true that they shipped out large numbers of inmates who broke down and were no longer able to work?

WITNESS KAHR: Well, I don't quite understand that. Do you mean they were shipped out of their working places?

Q. No. You are familiar with invalid transports, are you not, Doctor?

A. Yes, yes. I know that invalid transports took place.

Q. And where were these invalid transports from Dora sent, do you know?

A. I know of one transport right now which was sent to the rest camp Bergen-Belsen.

Q. And, actually, was Bergen-Belsen a rest or recreational camp, Doctor?

A. I only found out while I was a prisoner of war that it was not a rest camp. At the time, however, I did not know too much about it.

Q. Doctor, don't you know now that these persons sent in these invalid transports were in fact exterminated in Bergen-Belsen and in other camps?

A. I only learned that now. However, I did not know that at the time.

Q. But you do know it now, don't you, Doctor?

A. Yes, I do.

* * * * *

CROSS-EXAMINATION

DR. SEIDL: Witness, you were a member in the Waffen SS in 1944?

WITNESS KAHR: Yes, sir.

Q. Correction—1940—and you joined on an honorary basis?

A. Yes, sir.

Q. What made you join the SS and not to do your duty to the Wehrmacht?

A. I joined the Waffen SS because the Waffen SS promised me after 3 months of training I would be used as a doctor, whereas, in the Wehrmacht I would have had to undergo at least 9 months of service with the troops as recruit.

Q. I would like to ask you to speak slowly and to make a short pause after every question.

A. Yes.

Q. At the time you did not think then that you were to belong as a member of a criminal organization, did you?

A. No.

Q. How did it happen then that you in 1943 became camp commander in—I shall repeat the question. How was it then, that in 1943 you first became a doctor in the concentration camp at Dachau, and then a doctor in the concentration camp at Dora?

A. I was with the troops from the beginning on. First in the reserve units in the Reich itself and later on I was at the front in Russia. There I was wounded at the Leningrad front, and I was laid up in a hospital for a long period of time, and then, since I could no longer be used at the front I was assigned to the concentration camp.

Q. You stated that early during the work in the concentration camp of Dora, the death rate was very high?

A. Yes.

Q. That probably is in connection with the fact that at the time the camp was under construction?

A. That was one of the reasons.

Q. However, later on under your supervision the conditions changed there to the better?

A. Yes.

Q. In the camp of Dora, secret weapons were constructed? Particularly, the V-weapons?

A. Yes.

Q. That was in 1944?

A. Yes.

Q. Is it correct if I say that these weapons were constructed in these subterranean factories due to the fact that it was impossible to work safely on top of the earth, or the surface, due to the strength of the Allied air forces?

A. Yes. I believe that was the reason.

Q. And that through these attacks alone 800,000 to 1,000,000 workers and other civilians suffered damage or were killed?

A. That is possible.

Q. That, therefore, at the time it was impossible to still construct factories on a large scale?

A. Yes.

Q. The factories of the camp Dora were constructed in tunnels?

A. Yes.

Q. You also mentioned the Mittelwerk company?

A. Yes.

Q. Do you know that the Mittelwerk was an Aktiengesellschaft, a company with limited liability, and the company was under the chief of the army armaments [office] and the Minister of Armaments, Speer?

A. Yes.

Q. Do you also know that this office was responsible especially for the work done there?

A. For the work, yes.

Q. You also said before that one had in the foreground the execution of the planned work, and that it was of no concern to anybody that the people died. I ask you now, Witness, who gave you that answer at the time?

A. I received that answer first of all by Foerster, then by Dr. Lolling from Dr. Schiedlausky, from Pister, the concentration camp commander at Buchenwald at the time, and several times from Kammler.

Q. That is sufficient, Witness. Is it correct that the tunnels in which these factories were built already existed in part, and that they belonged to the Economic Research Office of the German Reich?

A. Yes.

Q. In other words, in general, the factories, respectively, these tunnels were expanded?

A. Yes.

Q. How many kilometers was the distance between Dora and Nordhausen?

A. I don't quite understand your question. Do you mean, how many from the factory?

Q. Yes. From the factory?

A. Camp Dora was one kilometer apart from the entrance to the tunnels.

Q. How can you explain the fact that according to the statement you made before, it took 4 hours to march there?

A. In my statement I answered it was not camp Dora but one of the subsidiary camps, which was actually a safe distance from the working place, but I did not talk about camp Dora.

Q. The automatic heating system was built during the course of the year of 1944?

A. Yes.

Q. Then one has to draw the conclusion that the administration, in spite of all of the difficulties, made plans to facilitate the life of these inmates in the camp?

A. I have to answer this question definitely in the affirmative because the management of the factory contributed quite a lot to the amelioration of conditions in the camp.

Q. The working time usually lasted between 11 to 12 hours, wasn't that correct?

A. Yes.

Q. Do you know that also the German workers in the German armament factory had to work from 10 to 12 hours a day, and sometimes even more?

A. Yes.

Q. I shall come now to the point which has something to do with the food in the camp. The civilian population in our zone of occupation receives at present 150 grams of meat per week. Do you have the impression—

MR. MCHANEY: If the Tribunal please, I think it is quite proper for defense counsel to interrogate the witness about the amount of food that the prisoners were fed at Dora, and he can exhaust that subject to any extent he desires, but I must rise to object to any comparison which he now intends to present as to food rationed out to Germans in the occupied zone now, whether under control of American Government or the German Government, it is quite immaterial and irrelevant.

PRESIDING JUDGE TOMS: I cannot anticipate that is what he is going to ask. Perhaps he won't.

MR. MCHANEY: That is what I understand his question to be. He was now stating the question, "Do you know that the German people are issued one hundred fifty grams of meat?"

PRESIDING JUDGE TOMS: I think that offers a comparison. I think that would be proper for an inquiry. You are alleging in the indictment a condition, that is, you are alleging a hardship that existed in a concentration camp among inmates that should meet some standard of hardship, and we need a standard from which it can be judged. I think the inquiry may be pursued.

MR. MCHANEY: Very well, your Honor, we will see how it develops.

DR. SEIDL: Now Witness, on the basis of your recollection, can you tell me how much meat the inmates received there per week, that is, approximately?

WITNESS KAHR: At the utmost, 50 grams.

Q. How much fat did they receive per week?

A. The inmates received according to my recollection approximately 120 grams of fat.

Q. One hundred grams of fat per week?

A. Yes.

Q. How much bread do you say they received per week?

A. They received one-third of bread; in other words, approximately 330 grams per day.

Q. In other words, that is more than four pounds, considerably more than four pounds?

PRESIDING JUDGE TOMS: What was the answer?

DR. SEIDL: He nodded, your Honor.

Now, Witness, I am sure you wanted to answer that question with "Yes," did you not?

WITNESS KAHR: Yes.

JUDGE MUSMANN: You didn't indicate what period, however.

DR. SEIDL: He said that per day these inmates received 330 grams of bread.

JUDGE MUSMANN: Let's shorten this. You summed up by saying that amounted to over four pounds, but you did not add for what period.

DR. SEIDL: I answered before—

JUDGE MUSMANN: Don't tell me what you answered before.

DR. SEIDL: Per week.

JUDGE MUSMANN: All right, per week. Go ahead.

DR. SEIDL: You furthermore stated that, in your opinion a normal consumer, a normal human being who does not work, needs at least 2,000 calories per day.

WITNESS KAHR: I said 2,400.

Q. 2,400. In other words, you would say that a human being who gets only 850 calories or 1,550 calories is not in a position to live much longer?

A. Not at all.

DR. SEIDL: Your Honor, I intend now to show the witness a document. The document is in document book 5 of the prosecution, Document NO-2132, Prosecution Exhibit 144. It is on page 135 of the German document book. This is a decree of the Reich Minister of Food and Agriculture, dated 7 April 1942. I shall quote from number I-1, second paragraph, "Rations for judicial prisoners, inmates of concentration camps, and for prisoners detained in police prisons." I shall skip the first two chapters (a) and (b), and shall quote from (c):

"The fat, bread, and flour rations to be issued in accordance with my decree of 16 January 1940—II C. 2-948, with reference to 1 b, d, and h, have been determined as follows:

Fats, total amount.....	170 gr.
Either margarine	130 gr.
or Salad oil	104 gr.
Suet	40 gr.
or Lard	32 gr.
Bread	2450 gr.
Rye flour of type 1790.....	75 gr.
Bread flour of type 2300.....	50 gr.

“d. The other rations remain unchanged.”

I ask you now, Witness, do you believe that these rations are sufficient to keep a prisoner who does not work too hard alive?

A. I would have to see the average calories figure per day in order to answer that question, namely, what that amounts to per day.

PRESIDING JUDGE TOMS: Can someone tell us what the date of this exhibit is? It is not complete on this document that we have. It is Berlin, 7 April.

DR. SEIDL: 1942, your Honor.

Witness, can it not be seen very clearly from this document that the Food Ministry was responsible for the food allowances, because this is a decree issued by the Reich Minister for Food, and he is the one who has stated the amount of food to be issued to the population?

WITNESS KAHR: Yes.

Q. You also stated that there were also prisoners of war in the camp, to be sure, Italians and Russians. Do you know for what reasons these prisoners of war had been removed from their PW enclaves and put into these camps?

A. No. I do not.

Q. You also stated what the clothing allowance was for the inmates. Is it correct that in the last years of the war the German population also, particularly the German workers, received no allowance of material for clothes?

A. That is correct.

Q. Do you know that there was an order issued by Himmler in which it is said that the concentration camps, if the enemy should reach them, should be withdrawn from the supervision of the WVHA and that they should be subordinated immediately to the orders of the Higher SS and Police Leader in whose district the camp was?

A. No.

Q. Do you know that all questions concerning police matters, particularly questions about executions, were dealt with by the RSHA in Berlin?

A. Yes, I do.

Q. And that the RSHA had nothing to do with the WVHA?

A. Yes.

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EXTRACTS FROM TESTIMONY OF PROSECUTION WITNESS
JERZY BIELSKI *

DIRECT EXAMINATION

MR. ROBBINS: Will you state your name, please?

A. My name is Jerzy Bielski.

Q. Will you spell that please?

A. J-E-R-Z-Y. That is my first name. B-I-E-L-S-K-I.

Q. And are you a Polish national?

A. Yes.

Q. And I understand you were born in Warsaw, Poland in April 1921; is that correct?

A. Yes.

Q. You are single, a medical student, and you are now residing at Weiden; is that correct?

A. That is correct.

Q. Did you attend a high school in Warsaw?

A. Yes.

Q. And have you attended a medical school in Warsaw?

A. Yes.

Q. Were you an inmate in the Auschwitz concentration camp?

A. Yes.

Q. During what period of time?

A. I was in Auschwitz from August 1942 until November 1944.

Q. And from there where were you transferred?

A. I was sent to the concentration camps Oranienburg and Sachsenhausen.

Q. And subsequent to the end of the war you have been in DP camps?

A. Yes.

Q. At what places, please?

A. I was at Bremen, then Coburg, and from Coburg I finally came to Weiden.

Q. And have you applied to UNRRA to be returned to your native land, Poland?

A. Yes. I have.

Q. And you are waiting now to be transferred?

A. Yes. That is correct.

* Complete testimony is recorded in mimeographed transcript, 11, 14 April 1947, pp. 302-319; 341-399.

Q. Do you have a serial number on your arm that you received at Auschwitz, please?

A. Yes.

Q. Will you show that number to the Tribunal?

(The witness complied.)

Q. It is number 66423?

A. That is correct.

Q. In Auschwitz, what kind of work were you assigned to do?

A. At first, I was in the construction detachment. I was assistant laborer with the electrical detachment.

Q. And during the year 1944 were you assigned to work in a sand pit at Auschwitz?

A. Yes. In the spring of 1944 I was working in a sand pit at Auschwitz—as a disciplinary measure.

Q. And what was the name of that sand pit?

A. It was called after Hauptscharfuehrer Pallisch. The sand pit was located next to the villa.

Q. And was there a building at the sand pit at which there was a name plate of an industrial concern?

A. Yes. It was a structure built of wood, and on the sign was written "Deutsche Erd- und Steinwerke."

Q. And what kind of work were you doing at the sand pit?

A. I helped to load the carts with sand, and then we had to push these carts on the tracks.

Q. Was there some particular reason why you were assigned to the sand pit?

A. Yes. This was done to me as a disciplinary measure.

Q. And what had you done to be disciplined?

A. In the concentration camp Auschwitz in block 15, during this time in a search, our block officials of the political department found Polish books and several Polish journals which I had managed to obtain. That is why I was disciplined by the political department by being given punitive work in the sand pit.

Q. About how many inmates were working in this sand pit?

A. I worked there for two weeks. Approximately 150 to 155 inmates worked in the sand pit at that time.

Q. Will you describe to the Tribunal the treatment that these workers received while working at the sand pit?

A. One-third of the prisoners who worked there were inmates who were being punished by being forced to carry out this work, and then after they had completed the time of punitive labor, they were sent back to their original detachments. Then, of course, there were also the permanent workers in this detachment.

Q. I think you failed to understand my question.

A. The conditions that prevailed in the sand pit were terrible.

It was one of the worst detachments in the camp. All the people there did not get sufficient food. They were beaten and shot during their work. On the average, 10 prisoners were killed every day, and 10 to 20 who had lost consciousness and who were otherwise sick were returned to the camp daily. The work had to be achieved at such a speed that nobody was able to carry it out. Whenever we were unable to run as fast as we were told to, or whenever we showed that we did not have sufficient strength to push the carts, then we were always beaten—beaten to death—by the foremen and the Kapos, and the people were shot by the SS guards.

Q. Were you ever assigned to the gravel pit operated by the German Earth and Stone Works?

A. Yes. I personally did not work in the gravel pit, but the conditions which prevailed there I know very exactly from the descriptions of my friends, because I had some very good friends in this labor detachment. Furthermore, the people from this detachment were billeted with me.

Q. And did these people who were billeted with you, your friends who were assigned to the gravel pits, describe to you the conditions that prevailed there?

A. Yes. They described them to me exactly. Furthermore, I have personal experience. Every day I saw the entire detachment when they returned from work, and the entire detachment consisted of exhausted people. There were approximately three hundred inmates included in this detachment at that time, and every day 10 to 20 dead persons were carried back, and the same number of persons and patients had fainted. I always saw that when they entered the camp gate, and whenever this detachment returned from work. My detachment always returned to camp earlier than they did, approximately one-half hour earlier. That is why we were always in a position to observe the other detachments return. Among them were also the gravel pit detachments.

Q. Did there come a time when you were assigned to work at one of the plants operated by the DAW [Deutsche Ausruestungswerkstaette]?

A. Yes. This plant at Auschwitz belonged to the DAW, and at the time when I worked there as an electrician, there were about two thousand inmates who worked there. To this detachment belonged a large part of these Industriegelaende workshops and construction workshops but in 1944 all mechanic and forger detachments had been separated from these works and they had been attached to the DAW and employed there.

Q. Will you tell us, Witness, how you know that this shop was operated by the DAW?

A. Well, all prisoners in camp generally knew about that. Well, at this plant there was a sign, at one time * * * containing the letters DAW, and all Kapos had arm bands on the left arms which were different from the ones worn by other detachments. The Kapos from other detachments had yellow arm bands with black inscription and those of the DAW had black-blue arm bands with the white inscription "DAW" and the appropriate department where they were working.

Q. Will you tell the Tribunal something about the conditions that prevailed at this plant operated by the DAW, the working conditions?

A. Very well. This detachment always worked from early in the morning until 7 o'clock at night, and a half hour was taken off at noon. All the prisoners there were overworked. They had to carry out too much work. Furthermore, the civilian foremen and also the SS foremen had very bad reputations throughout the camp because of their sadism. Especially infamous was the director of this plant, Obersturmfuehrer Sauer. In my work I was present in many cases where beatings occurred and where inmates were beaten to death by Kapos, other SS men, and also by civilian foremen. I knew this man by the name of Obersturmfuehrer Sauer.

* * * * *

Q. Witness, are you missing some teeth from your mouth?

A. Yes.

Q. Will you tell the Court how you lost them?

A. In the course of my interrogations by the Gestapo in Kielce I was beaten for 3 months and I was tortured. At the time the Gestapo broke my nose; they knocked out 15 teeth, actually 12—3 I lost at Auschwitz. Furthermore, three ribs were broken when I was beaten. I was given five hundred strokes with a whip, and then I spent 2 months at the prison at Radom where I was beaten every day.

Q. Do you have any other scars on your body from this treatment?

A. Yes. I also have a wound at my heel. That comes from the year 1942 when I had typhus. For 2 weeks I had to walk. Then in the evening I did not want to go to the hospital because there one was easily disposed of through injections, and we preferred to die on the free fields rather than in the gas chamber. At that time I stood in the morning formation. One of the SS men saw that I was standing there. I had a very high fever at the time. I was not able to stand straight. He gave me several kicks, and as a result of this I had a very dangerous wound. Then I had an inflammation of my veins and blood poison; and that is

why my left leg is 16 centimeters bigger than my right, and I cannot stand on my leg more than 1 or 2 hours. Then, I have either to lie down or to sit down.

Q. Herr Bielski, do you have medical proof with you to show that you have lost from 60 to 70 percent of the use of that leg from mistreatment.

A. Yes.

MR. ROBBINS: Prosecution has no further questions.

* * * * *

EXAMINATION

JUDGE PHILLIPS: What was it the Gestapo asked you about, or questioned you about when they were beating you?

WITNESS BIELSKI: They wanted me to sign the indictment, and they wanted me to admit everything with which I had been charged. Then my mother and my sister, who was 11 years old, were also tortured in a very cruel manner. They spent four months in prison and afterward they were shot because the Gestapo wanted to force me to admit everything with which I was charged.

Q. What were you charged with?

A. I was charged with having sympathies and having collaborated with an underground organization, and of working together with the clandestine press, and of assisting the partisans in the Lysa Gora [Lyso Gory] mountains; because I had a hostile attitude toward the Third Reich.

Q. Are you a Jew?

A. I am half-Jewish.

Q. Where were you arrested?

A. I was arrested at Konsky [Konskie], two hundred kilometers from Warsaw. That is in the district of Kielce.

Q. What were you doing there?

A. At the time I was working in the clandestine press at Warsaw. My mother was at my father's estate, that was at Hakolski. My mother was arrested three days before my arrest, together with my sister, because they had been denounced by the man who was administering my estate.

Q. What weapons did the Gestapo use in the camp to knock out your teeth?

A. This was done with the butts of pistols, and then I was put in a place—I was put into a torturing instrument [chamber]; I was put with my head down. I was hanged on a piece of wood and both arms were bound together, and then three Gestapo men started beating me from all sides with sticks, with pistol butts,

and with a kind of whip they used to use. There was a thick wire inside and on the outside there was leather.

Q. I noticed you looking at the defendants; you shut one eye. Are either one of your eyes injured from any treatment you had there?

A. My eyes were damaged when I was maltreated; yes.

Q. To what extent were your eyes injured?

A. The sight nerves were paralyzed.

Q. The right eye?

A. Yes. My right eye.

* * * * *

EXTRACT FROM TESTIMONY OF PROSECUTION WITNESS
DR. BERNHARD LAUBER *

DIRECT EXAMINATION

* * * * *

MR. MCHANEY: Now, Doctor, you left Auschwitz in November 1944?

A. Yes.

Q. And where did you go?

A. We went to Oranienburg where we stayed for two weeks in the quarantine station. From there we went to Sachsenhausen for two days, and from there some of us were sent to Ohrdruf. And the others probably to Stutthof.

Q. And the camp, Ohrdruf S-3, was an outside camp of Buchenwald?

A. Yes.

Q. Approximately how far from Buchenwald was it?

A. About 60 kilometers.

Q. And will you describe the camp in Ohrdruf?

A. Yes, certainly. It was about two kilometers distance from the town, on a hill, and formerly these were SS barracks—at least we were told so. When we arrived there were no beds and no equipment of any sort. We had to, from a so-called prisoner of war camp at a distance from our camp of about half a kilometer, fetch certain equipment such as tables, benches, beds and so on, and take them to the north camp. That was done, of course, in the first case after our arrival, and we had to run to and from, and were beaten by the SS men.

Q. You mentioned the north camp. Was there also a south camp?

* Complete testimony is recorded in mimeographed transcript, 11 April 1947, pp. 282-297. See also background information of witness in testimony reproduced on pp. 646 to 650.

A. Yes. There was a south camp. Near Ohrdruf another two camps were founded—Krawinkel [sic] and Zeltlager.

Q. Now, was the north camp a work camp?

A. Up to the first half of January it was a work camp. Roughly in the middle of January it was used as a hospital place.

Q. In other words, before the middle of January 1945, the north camp of Ohrdruf S-3 was a work camp.

A. Yes.

Q. And then afterwards it was a convalescent camp.

A. It was a camp for ill people.

Q. What sort of work were they doing at Ohrdruf?

A. I was a male nurse.

Q. I mean, what type of general construction work was being done in the camp of Ohrdruf?

A. Twelve kilometers from Ohrdruf they built in the mountains, tunnels, underground.

Q. Were the tunnels large?

A. It was a very large operation and very heavy work. We started it.

Q. And how many inmates did they have working there?

A. From the north camp and the south camp, people from all four camps worked there, but I could not give the number. As far as our camp was concerned, which was at first a work camp, there worked up to 4,000 people.

Q. Do you know how many there were in the south camp, roughly?

A. No. I do not.

Q. Now, what were the living conditions in the north camp?

A. The conditions were terrible.

Q. Did they have good hospital facilities?

A. We had no hospital equipment at all. Most of the ill people, the so-called group 4— those who were not capable of working— they were accommodated in the stables. There were no beds in those stables. It was a concrete floor. The sick people lay on the bare floor, without straw, without covers and blankets; no drugs; and these ill people were given 50 percent of the food which we were given. They were so ill that they couldn't eat very well. They lay there with open wounds, they were not dressed, and they died there by the thousands. On one occasion, for 2 or 3 weeks, these people accommodated in the stables were examined for transports and some were transported away. And Dr. Greumius said they were going to Bergen-Belsen to recover.

Q. Did you ever hear what happened to them in Bergen-Belsen?

A. I do not even know whether they went to Bergen-Belsen, or what happened to them.

Q. Who was the SS doctor in the north camp?

A. Dr. Greumius.

Q. Now, can you tell us anything about the nationalities of the inmates working in Ohrdruf?

A. There were many nationalities there: Hungarian Jews, Polish Jews, Yugoslavs, Greeks, Russians, and Italians.

Q. Were there some French there?

A. Not very many, but there were some Frenchmen.

Q. Were there any prisoners of war?

A. Yes. Russian prisoners of war.

Q. Did you ever hear that actually what they were constructing at Ohrdruf was a headquarters for the Fuehrer?

A. No. We were told that underground factories for V-weapons would be constructed.

Q. Now, Dr. Lauber, can you tell us approximately how many inmates died in the hospital in the north camp during the period that you were there?

A. In the north camp, between the middle of January up to the beginning of April, there died—according to my estimation—three to four thousand people. Then another two thousand were sent to what was described as “recreation” and those two thousand add up to about five thousand. Until the middle of January, whenever the detachments left the parade ground, there remained on the parade ground roughly, about 10 to 12 dead each day; and in the evening when the detachments came back about twenty [dead] each day were loaded on those trucks and I, as the nurse of the block—in the beginning the prisoners did not have any identification numbers—had to know how many had died, and had to go to the mortuary and identify the people in their blocks because the SS people had to know that for their roll call.

Q. Can you state what clothing was given to the inmates in Ohrdruf?

A. The inmates in Ohrdruf were given wooden shoes, trousers, and a jacket, nothing else at all. That was in the middle of winter. Although the prisoners worked throughout the night, they worked in those clothes. I myself, worked in a detachment, a Kommando, for three weeks building a tunnel.

Q. What food was given to the inmates?

A. In the morning we were given black coffee and bread. Sometimes it was given only in the morning, sometimes in the evening, about 300 or 250 grams of bread; twice a week we were given additional bread. Twenty grams of margarine or a bit of sausage,

or when there was no sausage, we were given jam, a tiny portion of jam. When we returned from our work in the evening we were given some soup; sometimes it was beet soup, sometimes it was potato soup. One could almost call it water.

Q. Is the name of Dr. Pook familiar to you, Witness?

A. Dr. Pook? I heard the name Dr. Pook mentioned once. The chief doctor of our outside hospital told us Dr. Greumius was with the Obersturmbannfuhrer or something. I don't know the ranks. In any case it was the dentist in the camp and he said, "Teeth must not be treated—only extracted; and no anaesthesia must be used."

Q. Now, can you tell us what happened to Ohrdruf at the end of the war?

A. Yes. On or about 2 April we heard the American Army guns; we were told that the American Army had reached the town, and we were certain that the Germans would leave us behind. I, for instance, worked in a hut where there were about 400 people ill with typhus. Many of them were unconscious; they had very high temperatures. In other huts there were also grievously ill people, and we were quite certain that we would be left behind because there is no sense transporting dangerously ill people to various places; that would be a great danger, and we were quite certain that we would be left behind. Suddenly—roughly at 3 o'clock in the afternoon—there came somebody with the camp Dr. Greumius, together with SS men and the camp leader called Stuebitz, and they yelled that all prisoners, whether they were ill or not, should assemble on the parade ground. People walked out and the ill were loaded on trucks. Those who were a little better were driven off on foot, and they marched away in little groups guarded by SS men. We nurses and doctors remained behind to the last. Many people were hiding in various corners in the huts because they believed if they could last until the next day, the American Army would liberate them. These the Camp Leader Stuebitz and the Camp Dr. Greumius found and shot them down. I, myself, saw how Camp Leader Stuebitz used an automatic machine-pistol and Dr. Greumius also had a gun in his hand; and they walked around the camp with other SS men, and I heard shots fired in the huts and between the huts. I saw groups of prisoners who were shot down. Then some of the ill—a small part of the ill persons, perhaps 30, 40, or 50 persons, where it was not possible to load them on trucks—were also shot. We, the doctors and the nurses, left the camp last, and after about 20 minutes we saw an enormous fire, and we knew that the camp was already on fire.

Q. Did you receive a tattoo when you entered Auschwitz?

A. Yes. My number is 161374.

Q. Will you show the Tribunal your tattoo, please?

A. Certainly. (Witness rises, unbuttons shirt and bares forearm to Court.)

Q. Doctor, what are you doing now?

A. At the present time I am a so-called camp doctor in the UNRRA camp near Aschau employed as a children's doctor.

Q. And how many people are under your care there?

A. Four to five hundred.

Q. And what is your exact address, Doctor?

A. Dr. Lauber, Bernhard—

Q. No. I mean the place where you live.

A. Aschau, near Muehldorf; UNRRA Camp 1068.

MR. MCHANEY: I have no further questions.

PRESIDING JUDGE TOMS: Does anyone wish to cross-examine the witness?

CROSS-EXAMINATION

DR. RATZ (counsel for the defendant Hermann Pook) : Witness, you said that you heard of Dr. Pook once, and you also said that there had been an order that teeth must not be treated but only extracted and no anaesthesia should be used. It was not quite clear who told you this, and whether it was an order. You referred to the chief doctor of the SS hospital.

A. Certainly. The chief doctor was a Pole; his Christian name was Josef, and he told me—and he said that the doctors—he said that Dr. Pook had given an order to other doctors that teeth must not be treated, only extracted and no anaesthesia must be used. After all, the teeth could not be treated because there was no dental station there.

Q. There was no dental station there?

A. No. There was not.

Q. Was there no dental station because the camp was so new a camp, or did you observe that there was no equipment there anyway, so that patients could be treated?

A. I was there from beginning to end, and throughout that period there was no dental equipment there at all.

Q. Did you know whether a camp dentist was used in Nordhausen, was active in Buchenwald?

A. No. I do not know.

TRANSLATION OF VOLK DOCUMENT 25
VOLK DEFENSE EXHIBIT 13

EXTRACTS FROM ORDINANCE OF REICH PRESIDENT HINDENBURG
"FOR THE PROTECTION OF PEOPLE AND STATE," 28 FEBRUARY
1933

Copied from Reich Law Gazette, Part I, 1933—issued at Berlin,
28 February 1933—No. 17.

Page 83

Ordinance of the Reich President for the Protection of People
and State. Dated 28 February 1933. Under section 48, paragraph
2 of the Reich Constitution, the following is decreed for the pre-
vention of Communist acts of violence endangering the State:

Article 1

Sections 114, 115, 117, 118, 123, 124, and 153 of the Constitu-
tion of the German Reich are suspended until further notice.
Accordingly, restrictions of the freedom of the person, of speech,
of press, of assembly and association, interference with the privacy
of letters, of mails, of telegraph and telephone, also authorized
search of domicile and confiscation and restraint of property are
admissible also outside the limits normally set by the law.

* * * * *

Article 6

This ordinance comes into force on the date of its promulgation.
Berlin, 28 February 1933.

The President of the Reich.....VON HINDENBURG
The Chancellor of the Reich.....ADOLF HITLER
The Reich Minister of the Interior.....FRICK
The Reich Minister of Justice.....DR. GUERTNER

TRANSLATION OF DOCUMENT POHL 4
POHL DEFENSE EXHIBIT 3

EXTRACT FROM LAW CONCERNING THE SECRET STATE POLICE
(GESTAPO), 10 FEBRUARY 1936

Prussian Collection of Laws

1936 Issued in Berlin on 12 February 1936 No. 5

Page 21

(No. 14308) *Law concerning the Secret State Police*

From 10 February 1936

The Ministry of State has decided to enact the following law:

Article 1

(1) The Secret State Police is charged with the duty to investigate and to combat all activities hostile to the State within the whole Reich, to collect and to make the best use of the results of the investigations, to inform the Reich Government and to keep the other authorities well informed about facts which are of importance for them, and to make suggestions to them. The Chief of the Secret Police in agreement with the Minister of the Interior decides which matters should be transferred to the Secret Police.

(2) The competence of the normal administration of justice remains unchanged.

Article 2

(1) The "Ministerpraesident" is the Chief of the Secret State Police.

(2) The Deputy Chief of the Secret State Police, appointed by him, executes his official functions.

Article 3

(1) The Office of the Secret State Police is the Supreme Authority of the Secret State Police in the Land. It has at the same time the competence of a Police Authority of the Land.

(2) The Office of the Secret State Police has its seat in Berlin.

Page 22

* * * * *

Article 3

Directives and matters of the Secret State Police are not subject to a reexamination by the Administrative Courts.

* * * * *

Berlin, 10 February 1936

(Seal)

The Prussian Ministry of State

GOERING FRICK

In the Name of the Reich, I, by the order of the Fuehrer and Chancellor of the Reich, promulgate the above law, to which the Reich Government has given its consent.

Berlin, 10 February 1936

The Prussian Minister President

GOERING

TRANSLATION OF DOCUMENT POHL 5
POHL DEFENSE EXHIBIT 4

EXTRACT FROM GOERING'S DECREE, 10 FEBRUARY 1936, IMPLEMENTING THE LAW CONCERNING THE SECRET STATE POLICE (GESTAPO)

Prussian Collection of Laws

1936 Published in Berlin on 12 February 1936 No. 5
Page 22

(No. 14309). Decree for the carrying out of the Law concerning the Secret State Police of 10 February 1936 (Collection of Laws, Page 21, 10 February 1936).

According to the Articles 1 and 8 of the Law concerning the Secret State Police of 10 February 1936 (Collection of Laws, page 21) the following is directed:

Article 1

The Secret Police can carry out police investigations in cases of high treason, treason, and crimes connected with explosives, as well as in other punishable attacks on the Party or the State.

Article [2 (?)]

(1) The Secret State Police can take measures within the competence of the Secret State Police in the whole district of the land and with effectiveness for the entire district of the land.

(2) The Secret State Police has the competence of the Supreme Authority of the Land in cases of the violation of the law concerning firearms and ammunition of 13 July 1928 (Reich Law Gazette I, page 198).

(3) The Office of the Secret State Police is the central collecting place for political police news.

(4) The Secret State Police administrates all the concentration camps of the State.

(5) The Office of the Secret State Police in Berlin is also competent for the tasks of the Secret Police, as police for the land, for the District and as local police.

The chief of the Secret Police determines whether and to what extent those tasks should be transferred to the office of the State Police in Berlin.

* * * * * *

Berlin, 10 February 1936

The Minister President of Prussia The Reich Minister and
Minister of the Interior for
Prussia
FRICK

GOERING

TRANSLATION OF DOCUMENT SOMMER 34
SOMMER DEFENSE EXHIBIT 32

DECREE OF REICH MINISTER OF JUSTICE, 23 MARCH 1938, CON-
CERNING COMPULSORY LABOR OF PRISONERS BEFORE TRIAL

Copy

No. 103 Compulsory Labor Service of Prisoners Awaiting Trial
General Decree of the Reich Minister of Justice of
23 March 1938 (4520—III s.L. 382)
—German Justice, page 447—

According to the National Socialist opinion labor is the duty of everybody who is able to work. In the places of confinement of the department of Justice the employment of prisoners in serious and useful works is part of the institution agenda. Therefore, as a principle also prisoners awaiting trial are obliged to work.

The wardens of the institutions will have to see to it that the necessary time and rest remain to the prisoners confined pending trial for their defense and the preparation thereof.

Serious self-employment conforming to the agenda of the institution may be permitted.

This general decree is not applicable for the time being to the country Austria.

TRANSLATION OF DOCUMENT GEORG LOERNER 26 *
GEORG LOERNER DEFENSE EXHIBIT 23

ORDER, UNSIGNED, 14 DECEMBER 1938, CONCERNING DUTIES OF
GESTAPO AND COLLABORATION OF PARTY AGENCIES

Excerpt from: "*Decrees—Orders—Announcements*," 2d volume, published by the Party Office, Main Publishing House of the NSDAP, Frz. Eher Publishing Company, Munich, page 430.

Security Police

A.200/38 Collaboration between Party agencies and the Secret State Police [Gestapo]
14 December 38

In summarizing all orders previously issued on the subject of collaboration between the Party and the Secret State Police, I refer to, and order as follows:

* Document is the same as 1723-PS, introduced before International Military Tribunal as U.S.A. 206.

1. The Secret State Police has been ordered by the Fuehrer to supervise and render harmless all enemies of the Party and of the National Socialist State, as well as destructive forces of all kinds intent on the undermining of either of the two. The successful accomplishment of this task is one of the most essential prerequisites for the uninterrupted and smooth working of the Party. The NSDAP is to render every possible aid and to grant support to the Secret State Police in this extremely difficult work. The supervision of the Party itself does not fall within the tasks set for the Secret State Police.

I prohibit all Party agencies and affiliated and related organizations to undertake investigations and interrogations in matters which fall within the jurisdiction of the Gestapo. The competent agencies of the Secret State Police are to continue to be notified immediately of all events politically connected with the police without prejudice to the report to be made via official Party channels.

2. In accordance with the laws of the National Socialist State valid for all Volksgenossen [fellow citizens], the Secret State Police is committed to turn over automatically to the competent public prosecutor all cases falling into the sphere of criminal law, even if Party members are involved. In such cases the State Police agencies will, in future, continue to notify the competent Gauleiter or Kreisleiter of the fact that a case was turned over to the public prosecutor, specifying the reasons and facts of the case. In the interest of the prestige of the movement the high functionaries are committed, after contacting the competent Party tribunal, to issue where necessary a temporary order excluding the respective Party member from the Party before his trial in public.

TRANSLATION OF DOCUMENT MUMMENTHEY 16
MUMMENTHEY DEFENSE EXHIBIT 22

EXTRACTS FROM DECREE OF THE REICH MINISTRY OF THE INTERIOR,
30 APRIL 1938, ESTABLISHING 8-HOUR REGULAR WORKING DAY

Certified copy

Extracts from Reich Law Gazette, part I, 1938 issued by
Reich Ministry of the Interior

Page 447:

Regulation establishing working time

of 30 April 1938

First Section

General regulations

Article 1

* * * * *

Article 2

Definition of working time

(1) Working time covers the period between the beginning and the end of the work, not including rest periods.

* * * * *

Second Section

Working time, general aspects

Article 3

Regular working time

The regular working time on week days must not exceed a period of eight hours.

Article 4—Article 29

* * * * *

TRANSLATION OF DOCUMENT MUMMENTHEY 17
MUMMENTHEY DEFENSE EXHIBIT 23

DIRECTIVE OF GOERING AND TODT, 15 FEBRUARY 1939, CONCERN-
ING WORKING HOURS ON BUILDING SITES

Certified copy

Extract from "Deutscher Reichsanzeiger und Preussischer
Staatsanzeiger"

(German Reich Gazette and Prussian State Gazette)

No. 45 Berlin, Wednesday, 22 February, evening, 1939

2d Directive—Concerning: Working time on building sites

Pursuant to the measures taken with a view to increasing the output efficiency of the building industry it appears necessary to exclude all conditions conducive to a curtailment of capacity. One of these circumstances, among others, is work in darkness which, in addition to reducing efficiency to a considerable degree, in most instances also involved an increased danger of accidents. Of necessity this also involves an increase in the cost of building. In addition to an excessively high allocation of labor the work in three shifts makes quartering of workers most difficult and, furthermore, it makes it impossible to keep the building machines and implements in proper working order and to carry out repairs.

In agreement with the Reich Labor Minister I therefore decree that, as a matter of principle, work on building sites is to be confined to two shifts only, within which scope, however, and in keeping with the Reich Tariff Order governing the building trade

of 26 November 1938, as amended or still to be amended, working hours can be extended up to 10 hours per day. Arrangement for a third shift is permissible as an exception only, and only with consent of the Industrial Inspection Board [Gewerbeaufsichtsamt]. In doubtful cases the final decision will be made by the Plenipotentiary General in charge of control of the building industry.

Regulations governing working time, as well as rulings laid down for overtime payment by the Reich and Tariff Order for the Building Trade are to be taken into consideration.

Berlin, 15 February 1939

Minister President
Commissioner for the Four Year Plan
[Signed] Field Marshal GOERING
The Plenipotentiary General in charge
of control of the Building Industry
Inspector General Dr. Ing. TODT
[Signed] DR. TODT

TRANSLATION OF DOCUMENT MUMMENTHEY 19
MUMMENTHEY DEFENSE EXHIBIT 25

DECREE OF GOERING, 1 SEPTEMBER 1939, ABROGATING DECREE OF
30 APRIL 1938, CONCERNING 8-HOUR REGULAR WORKING DAY

Certified Copy

Extract: Reich Law Gazette, Part I, 1939 published in
Berlin, 7 September 1939

Page 1683

*Enactment amending and supplementing regulations covering the
field of labor law, 1 September 1939*

The Council of Ministers for Reich Defense decrees, for enforcement as law: * * *.

III. Labor Protection

(1) The following laws and enactments, and instructions issued by virtue of these laws and enactments—insofar as they establish the duration of week-day working hours—are declared void, until further notice, for male workers and employees over 18 years of age:

Order establishing working hours, of 30 April 1938,* Reich Law Gazette I, page 447.

* * * * *

* See Document Mummenthey 16, Mummenthey Ex. 22, p. 421.

Berlin, 1 September 1939

The Chairman of the Council of Ministers for Reich Defense,
GOERING, Field Marshal
The Reich Minister and Chief of the Reich Chancellery,
DR. LAMMERS.

TRANSLATION OF DOCUMENT GEORG LOERNER 28 *
GEORG LOERNER DEFENSE EXHIBIT 25

LETTER OF LAMMERS TO GUERTNER, REICH MINISTER OF JUSTICE,
8 AUGUST 1939, AND LETTER OF BOUHLER, CHIEF OF THE PARTY
CHANCELLERY, TO LAMMERS, 26 JULY 1939, CONCERNING
TRANSFER OF SECURITY DETAINEES TO CONCENTRATION CAMPS

"For Press only"

Berlin W 8, 8 August 1939
Vosstrasse 6

The Reich Minister and Chief of the Reich Chancellery
Rk.21364 B

To the Reich Minister of Justice, Dr. Guertner

Subject: Accommodation of persons in security detention.

Ref. my letter of 24 June 1939

Rk 17778 B-III al 932/40 Ia 4535

Dear Herr Guertner,

According to the letter as per enclosed photostat of the Chief of the Chancellery of the Fuehrer of the NSDAP, dated 26 July of this year, the Fuehrer has meanwhile decreed that all dispensable persons held in security detention are to be made available to the Reich Leader SS with immediate effect.

As you will see from the letter, the Chief of the Chancellery of the Fuehrer of the NSDAP reported the matter personally to the Fuehrer. Therefore, to my regret, I was not able to keep the promise I made in my letter of 24 June to give you the opportunity of expressing your point of view prior to the Fuehrer's decision.

Heil Hitler!

Yours very truly,

[Signed] DR. LAMMERS

No. III 15¹ 1184 1 encl.

* Document is same as Document NG-340, introduced as Prosecution Exhibit 257 in case of United States vs. Josef Altstoetter, et al., vol. III.

Rk 21364 B

Berlin W 8, 26 July 1939

Vosstrasse 4

Telephone local: 12 00 54

long distance: 12 66 21

S/Pue

To the Chief of the Reich Chancellery

Reich Minister Dr. Lammers

in the Building

Subject: Persons held in security detention.

Dear Party Member Dr. Lammers,

The Reich Leader SS requested the Reich Minister of Justice quite some time ago to make part of the persons held in security detention available to him for urgent work in the concentration camps. This became all the more urgent because, on the occasion of the Fuehrer's fiftieth birthday, a larger number of persons held in protective custody were released. The request made by the Reich Leader SS was turned down in the letter dated 14 July 1938, on the grounds that, in addition to work to cover the requirements of the penal institutions themselves, persons held in security detention were also doing work which must be considered urgent from the point of view of the Four Year Plan. As opposed to, it was ascertained on the occasion of an inspection of the penitentiary Brandenburg-Goehrden by the chief of the Department for Pardons and Reprieves in the office of the Fuehrer, that at the present time a large number of the persons held in security detention are occupied painting cardboard soldiers, for the account of private firms. In view of the far more important and actually urgent work in the sense of the Four Year Plan, carried on for example by the inmates in the concentration camp Sachsenhausen and the annexed brickyard, the Fuehrer has decreed that all dispensable persons held in security detention are to be made available to the Reich Leader SS with immediate effect.

In spring, after an inspection of the concentration camp Sachsenhausen, at the request of the Reich Leader SS, I supported his application to the Fuehrer and was ordered to ascertain in what manner persons held in security detention were at present occupied. Pursuant to this order I made the necessary investigations and also received a report on the subject from the Reich Minister of Justice, which reads as follows:

"The number of persons held in security detention amounts to 4303, according to the latest facts ascertained. Of these, 4096 persons in security detention are employed, i.e., 721 persons in security detention (16.8 percent) on work for the requirements

of the penal institutions themselves and the requirements of other agencies, and 3375 persons in security detention (78.4 percent) on work within the scope of the Four Year Plan (including work for export and for war economy). The remainder of 207 persons held in security detention (4.8 percent) was unemployed on the day when the check was made, due to sickness or because they were serving sentences of arrest."

There can be no doubt that in this instance the persons held in security detention, who are occupied at work on toys as already mentioned and are earning for the institution RM 1.20 to RM 1.80 per person per day, are classified under the heading "Urgent Four Year Plan Work."

Therefore, after I had presented the case to him at Obersalzberg, the Fuehrer made the above mentioned decision and already at the time of my first presentation of the case inclined to the opinion that persons held in security detention are to be classified under the heading of concentration camps and subordinated to the Reich Leader SS.

I specifically refrained from any direct notification to the Reich Minister of Justice. Will you kindly forward the Fuehrer's decision to the Reich Minister of Justice?

I have informed the Reich Leader SS of the Fuehrer's decision and of my letter to you.

Heil Hitler!
[Signed] signature

TRANSLATION OF DOCUMENT POHL 13
POHL DEFENSE EXHIBIT 12

EXTRACTS FROM ARTICLE BY FREISLER, UNDER SECRETARY IN REICH MINISTRY OF JUSTICE, ON "WORK ASSIGNMENTS AND PENAL ADMINISTRATION", PUBLISHED IN "GERMAN JUSTICE," 13 SEPTEMBER 1940

German Justice

Administration of Justice and Legal Policy

Founder: Reich and State Minister Staatsrat Hanns Kerrl,
former Prussian Minister of Justice
Official Publication of the German Administration
of Justice

Weekly Journal of the Ministry of Justice

Publisher: Dr. Franz Guertner, Reich Minister of Justice
Chief Editor: Ministerialrat Dr. Karl Klug of the Reich Ministry
of Justice

102d annual set Berlin, 13 September 1940, Edition A No. 37
Page 1021

Work Assignments and Penal Administration
By Dr. jur. Roland Freisler, Under Secretary in the Reich
Ministry of Justice

The fact that work represents one of the most important means of a successful penal administration, including imprisonment, is for us, who participate in the German Penal Administration, an obvious truth.

* * * * *

The following measures originated, were carried out by the German Penal Administration immediately after the seizure of power.

* * * * *

Page 1022

* * * * *

3. Subsequently the Reich Minister of Justice introduced the compulsory labor duty, also for people in detention pending trial. Former scruples—against this measure, unfounded as such in my opinion—have been found to be unjustified. It appeared, on the contrary, that the majority of people detained pending trial appreciated a *possibility* to work which they regarded the labor *duty*. It has also been proved that it is absolutely possible to introduce work for people detained pending trial without curtailing the possibilities of preparing their defense to which they are entitled, and without increasing the danger of underhand plotting of people detained pending trial.

* * * * *

6. Finally, the working time of prisoners has been extended at the beginning of the war, because here too, the utmost effort should be requested, especially in time of war. That the working time should not pass the mark beyond which a further extension would not mean an increased production, is understood. This limit is, of course, not the only one that the Administration of Justice has imposed upon itself.

* * * * *

It is not necessary to emphasize that the German Penal Administration is ready to accept any work important for the benefit of the people, and that this practice is carried out, too. The administration should not consider any (work) as too unpleasant or too dangerous. I mention this only in order to stress the fact that a considerable number of prisoners ask for dangerous work which is outside the frame of ordinary work; this is significant for the spirit in that part of the German Penal Administration that does not deal with the asocial criminals who are lost for the German people's community anyway. The public, too, should always remember that there are quite different types

of people subject to penal administration, and the opinion, the majority of convicts represent the last dregs of society, is false.

* * * * *

TRANSLATION OF DOCUMENT MUMMENTHEY 20
MUMMENTHEY DEFENSE EXHIBIT 26

EXTRACTS FROM CIRCULAR DECREE OF GOERING, 10 APRIL 1942,
CONCERNING 56-HOUR MINIMUM WORKING WEEK OF CIVIL
SERVANTS

Certified copy

Extracts from *Ministerialblatt des Reichs- und Preussischen
Ministerium des Innern* (Ministerial Bulletin for the Reich and
Prussian Ministries of the Interior) published by the Reich
Ministry of the Interior

7th (103). year; 1942 (No. 1-52)

Page 765

*Regulation establishing Minimum Working Time for Civil
Servants, During Wartime*

Circular Decree of RMdI (Reich Ministry of the Interior) of 25
April 1942—II a 1087/42 6450

I hereby announce, and order compliance with, the following
directive issued by the chairman of the Ministerial Council for the
Defense of the Reich on minimum working time for civil servants
during wartime, dated 10 April 1942.

* * * * *

Enclosure: Regulation

*on the minimum working time for civil servants during war-
time, dated 10 April 1942.*

(1) The burden on administration and establishments serving
the public is so great as a result of the tasks created by the war
that, notwithstanding the exemplary diligence of all public serv-
ants and other service personnel, the working time established
for civil servants by the Decree of 13 May 1938 (Reich Law
Gazette I, page 593) has long ceased to be adequate. While as a
result of this, the limitation of working time was already spe-
cifically rescinded by decrees of the Supreme Reich Authorities
and while in all administrations and establishments serving the
public, working hours have been considerably extended since the
beginning of the war, it nevertheless has proved necessary to
establish uniformly a minimum working time. Practically speaking
this merely means a confirmation of conditions which already
exist.

(2) I therefore decree for the territory of greater Germany:

1. The minimum working time for civil servants is established with immediate effect as 56 hours per week. In places where work is carried on without a rest period the working time will be 53 hours per week, as a minimum. Where working hours do not provide for an interruption of work, a rest period may be introduced which will be established according to the discretion of the heads of offices and managers of establishments [Betriebsleiter]. It cannot be computed against the working time.

2. Limitation of daily working hours to a maximum of 9 hours is revoked. As the soldier at the front knows no limitation of service—irrespective of all deprivations and dangers—every person working for official authorities likewise must discharge his official duties in such manner that nothing remains unattended to.

3. There will be no interruption of work on Saturday afternoons and on Sundays.

* * * * *

7. As provided by Article 13 of the regulation of 30 April 1938 establishing working time (Reich Law Gazette I, page 446) the above order also applies to employees.

* * * * *

Berlin, 10 April 1942

The Chairman of the Ministerial
Council for the Reich Defense,
GOERING.

TRANSLATION OF DOCUMENT MUMMENTHEY 21
MUMMENTHEY DEFENSE EXHIBIT 27

DECREE, 31 AUGUST 1944, INCREASING REGULAR WORKING
WEEK TO 60 HOURS WHERE NECESSARY

Certified Copy

Extract from Pfundtner-Neubert, *The new German (Reich) Law*
[Part] IV. *Social welfare and labor law, (e) Labor law*
working time 8
(60-hour week)

Page 51

*Decree relative to the 60-hour week of 31 August 1944 (Reich
Law Gazette I, page 191)*

* * * * *

The decree reads as follows:

Straining every ounce of strength in soul and body, the German people are going through the decisive phase of the battle which will decide on their vital rights and their National Socialist sys-

tem. On all fronts the German soldier's achievements are superhuman. In a great number of establishments of war industry the élite of the German working class is accomplishing a maximum of achievement even now.

Enforcement of the measures demanded by the total war effort, therefore, demands that the following be decreed for the entire German war economy:

Article 1

(1) In all establishments and administrations where the accumulation of work and the production situation so demand, the regular working period of 48 hours per week is to be increased by 12 hours overtime per week. * * *

The Reich Labor Minister,
The Plenipotentiary General for the
Allocation of Labor [Arbeitseinsatz]

EXTRACTS FROM TESTIMONY OF DEFENDANT OSWALD POHL *

DIRECT EXAMINATION

* * * * *

DR. SEIDL (counsel for defendant Pohl): Did Gruppenfuehrer Gluecks, the Inspector of the Concentration Camps, report to you regularly with reference to the various discussions which he had with Mueller, the chief of the Gestapo?

A. No. He never did that. I never heard anything about the contents of these conversations.

Q. With whom did you have official connections, apart from Obergruppenfuehrer Gluecks, with reference to Amtsgruppe D?

A. The only person apart from Gluecks, with whom I had further official discussions regularly, was Oberfuehrer Lolling, the chief physician of the Inspectorate. He came to see me once a month. He then gave me the monthly report on the sickness and death rate development in the concentration camps which was based on statistics.

Q. What were the deductions that you could make on the statistical reports of Oberfuehrer Lolling, and how far were you, thus being in a position to see what happened in the development of the health situation of the inmates.

A. On the basis of these statistics, I could recognize the health condition of the inmates. The cases that occurred were separated according to their nature with curves, and also the development of the death rate. I could recognize, in other words, in what camps the sick or death rate was higher, where it was lower, and I

* Complete testimony is recorded in mimeographed transcript, 16, 19-23, 27-29 May, 2, 3 June, 25 August 1947; pp. 1258-2040 and 6759-6786.

could see what this was based on, what the reason was for that, because these single diseases were listed below with other statistics again, and as I said before, I could see the development of the death rate.

Q. What was the position of the concentration camp commanders under the Chief of the Inspectorate [who became] later the chief of Amt D?

A. They had the position of independent commanders and they were responsible for their own field of tasks. That is why all the organs which belonged to an independent office or agency were at their disposal, namely, command leadership, administration, and medical equipment. These three were requirements of an independent command leadership.

JUDGE PHILLIPS: While you are right there on the reports that you say you got from Dr. Lolling, what did you find out as to the health or the death rate from the reports on the inmates? You said you could see the condition and the death rate. What did you find out, or what was your conclusion from these reports?

DEFENDANT POHL: I could deduct from these statistics, in other words, where the diseases had increased, where the death rate had increased, or where it had been reduced. I said that. I said that I could see from those curves all those various things on the basis of those drawings that were submitted me.

Q. Did they give you any figures?

A. Of course. I mean, it was statistically listed. I could see from month to month, let us say, the death rate is fifteen per thousand, or twenty-five per thousand, on the basis of these figures I could recognize if the death rate was rising or if it was sinking, and I could find out what the reasons were for this development.

Q. Well, did it give the figures, the number of dead each month?

A. No. I did not receive these total figures in those statistics.

JUDGE MUSMANNO: When you received the percentage of deaths, weren't you sufficiently interested to ascertain the actual number of deaths?

DEFENDANT POHL: Well, I always based myself on the statistics. In other words, on the percentage. I did not have any information on the total number of the deaths, and how they were distributed on the various diseases.

Q. Then you did ascertain the actual number of deaths?

A. No. I did not.

Q. Well, if you received a report which said 2.5 deaths, now didn't you carry through to learn just what 2.5 meant in numbers?

A. I never received a written report, in other words, in text form. The report which was submitted to me consisted of nothing

but curves. It was statistically written down in curves. I never received a report which was written, shall we say typewritten, that stated for every camp so and so many people died, or so and so many are sick, but it was just a preliminary work that was carried out. Lolling received from all the camps the sick reports and he compiled them and made one big statistic, and that was the statistic that was submitted to me that I could see clearly and immediately what the development of the camps was.

Q. Don't let us speak in such abstractions. You actually received a report showing the percentage of deaths?

A. Yes. I received a statistic development of the deaths, but I never received a report.

Q. Please answer the question directly. Did you receive a percentage report?

A. No. I didn't.

Q. You said a few moments ago that you did, that you would receive a report showing a certain percentage per thousands of deaths. Now did you, or did you not receive such a percentage report?

A. Well, when I say "report" I mean a written report concerning the developments, not a statistic report.

Q. I understood you to say a few minutes ago that it was a statistical report.

A. That is correct. When I say, "a statistical report" I mean the curves of development which are in the statistics.

Q. Very well. Then you received a chart with the curves showing whether the deaths were increasing or decreasing.

A. Yes. That is correct.

Q. Yes. And now did you translate that curve into figures?

A. Well, from the curve—

Q. Into numbers?

A. —from the curve I couldn't actually recognize the total number of deaths.

Q. Well, what would the curve mean to you if it were not translated into numbers? Looking at a bare curve would be of no significance unless it were translated into figures, isn't that right?

A. I do not quite understand the question. Would you repeat it? [The question was repeated by the interpreter.]

A. That is quite correct. Of course, it does. From the curve I could see the percentage or the per mile of a thousand inmates, and then I could translate it into the total number of inmates. In other words, if it was stated that of a thousand inmates, fifteen had died, then I could figure it out for myself that that was the

total number of the death rate compared with the total number of inmates. Of course I could.

Q. Then you did know how many people were dying in the concentration camps?

A. Yes. I did.

Q. And when you saw the number increasing, did you do anything about it?

A. Of course I did. That development was always dependent on the development of the diseases. I inquired what diseases actually prevailed there, what measures had been taken in order to eliminate a steady increase of these diseases. The diseases, epidemic diseases, were usually the reason for the deaths, and they depended on the time or on the epidemic that prevailed at that time. In these curves we could not see all the deaths which occurred through the measures of the Reich Security Main Office or the Reich Government. I only dealt with the inmates who were in the camps according to plan, and who could be used for labor allocation.

Q. What Judge Phillips and I were endeavoring to ascertain, and I think now we have ascertained, is whether you knew the number of deaths occurring in the concentration camps, and from this long interrogation we now conclude that you did know.

A. Yes.

JUDGE MUSMANN: Very well, you may carry on, Dr. Seidl. As far as we are concerned we have finished this phase.

DR. SEIDL: Witness, before the recess we had come to the reports which the chief physician for concentration camps, Dr. Lolling, made to you about sickness conditions and mortality figures. We shall have to come back to this point once again of course, but I want to ask you right now: Was this statistical report, which was in the form of graphs, subdivided according to individual concentration camps, or was this statistical picture given merely for the entirety of the camps?

DEFENDANT POHL: It was not subdivided according to individual camps, but it gave the picture for all camps.

Q. Let me first of all pass by the fact that repeatedly epidemics broke out in various camps. Let me, however, put this question to you: Did the statistical pictures Dr. Lolling gave you as graphs give you cause for any particular qualms regarding the health conditions of prisoners and the death rate?

A. No. These graphs were compiled on the strength of casualty figures, and the death rate was within normal limits, so that I had no particular reasons to take any particular steps.

Q. We know today that in certain camps extermination measures against certain groups were introduced, and I am thinking

especially of the extermination of Jews. Were these groups of people represented in Dr. Lolling's statistics, or did he confine himself to covering only those cases which, on the strength of reports from medical offices from individual camps, came to his knowledge?

A. The figures about exterminations were not reported to the Inspectorate at all, and consequently Dr. Lolling could not evaluate them for his statistics. He made his statistics on the strength of reports which the camp medical officers submitted to him.

* * * * *

DR. SEIDL: I shall now turn to Document R-129, submitted by the prosecution as Exhibit 40, German text page 70, document book 2, page 66 in the English version. It is an order which you yourself gave after the Inspectorate of Concentration Camps had been included in the WVHA, and which contains the instructions and information given to camp commanders and plant managers during the conferences on 24 and 25 April 1942. What were the reasons which caused you to call the commanders and plant managers before you, and did similar conferences take place subsequently?

DEFENDANT POHL: After the Inspectorate for Concentration Camps had been transferred to us, I had a first conference on 24 or 25 April 1942, when I called the camp commanders together with the plant managers to my office in Berlin. On that occasion I explained to them the new plan of organization resulting from Himmler's orders regarding the jurisdiction of concentration camps which had been transferred to the WVHA. I pointed out to them that the only cause for this incorporation was the question of allocating labor, and that consequently this was moved into the very foreground of the tasks and duties, particularly those of the camp commanders.

As far as this labor allocation was concerned, the plant managers of the economic enterprises in concentration camps weren't any less interested; and between these two, and right from the beginning, there were considerable discrepancies regarding the allocation of prisoners. The commanders were trying, as before, to get hold of experts without having to send them to the firms which came under the WVHA, but they were interested in starting their own plants and black market firms.

I tried, during this joint conference between the camp commanders and plant managers, to do away with these discrepancies by drawing the attention of these two groups to the much higher aim of the armament tasks which we were facing.

I stated further in this order what my points of view were

concerning general principles and directives regarding working hours. I said, in fact, "This employment must be truly exhaustive in order to achieve a maximum output." I would attach importance to an explanation particularly of the conception of "exhaustive". I believe it has been translated "exhaustive" in the English. The word "exhaustive" has a double meaning in German. On the one hand it means exhaustive from the point of view of exhausting all possibilities; and then it means exhaustive from the point of view of tiredness, getting exhausted. In English, "exhaustive" has a very clear meaning, namely, the meaning of the exhausting of possibilities. What I was trying to say here, was that there should be well-planned utilization of the proper labor allocation and I was not thinking of the exhaustion of individual men. Likewise, in the case of the formulation contained under figure 5, which says "working hours should be without limits", we are concerned with the limits of time. Up to that time, as far as I am informed, working hours, generally speaking, were subject to the hours from 0600 or 0700 hours to 1700 or 1800 hours. Of course, it happened that working parties of prisoners, because of weather conditions such as fog, etc., either left or arrived late, or didn't even leave at all. For instance, as I have myself experienced on one occasion, it did happen that entire truck convoys loaded with fresh herbs which had been collected in the fields along the road, simply had to be left standing over night because they arrived at 1700, 1800, or 1900 hours and the detainees or the prisoners had already fallen out, had already retired. Consequently, these fragile herbs perished, more or less, which of course, considering the tremendous quantity we were concerned with and the importance they had for products made from them, represented a very considerable damage.

Here, therefore, the labor allocation was to become more elastic, and in fact later on it did become essential that prisoners worked two shifts, in other words, even at night. There was a day shift which they worked one week, and a night shift which they would work the other.

That is what I was trying to say in this connection when I said that working hours had no limits because for the duration, as it said later on, the length of working hours as such was, after all to begin with, decided by the camp commanders alone.

Q. Article 7 of this order deals with a better guarding system. Who had suggested this step?

A. This suggestion came from Himmler. It was connected with changes in the labor allocation, with the mandatory consequences of this new arrangement.

* * * * *

DR. SEIDL: On 22 November 1943 you addressed yourself to the commanders of the concentration camps in a circular letter which deals with the working hours of inmates. This is Document NO-1290, Prosecution Exhibit 60, document book 3, page 64 of the English text and page 65 of the German version. This letter says, among other things, that working hours ordered for inmates of 11 hours a day must be maintained during the winter months and that exceptions could only be allowed if darkness set in too early for inmates to return to the camp in good time. What were the reasons for you to write this letter?

DEFENDANT POHL: In this case I always followed the general practice which was observed and which frequently changed during the last years of the war as far as working hours were concerned, and in other cases I had to observe orders and instructions from the OKW. As early as 1943, for instance, the 48-hour week had become a 60-hour week with us in the free labor market, and in 1944 it even became a 72-hour week. This regulation also applied to working hours in concentration camps; and as far as the 12 hours are concerned, I changed the 12 hours to 11 hours, taking into consideration the general situation, such as food and so forth.

* * * * *

DR. SEIDL: Witness, I shall now come to the complex of questions which are among the most important questions of this trial. That is the question of the concentration camps. We have already discussed a few documents within this complex. Those were the documents introduced by the prosecution within the framework of document books Nos. 2 and 3, and they also concern the organization of the WVHA. I would like to ask you a few fundamental questions with reference to this whole complex of questions. When was the first concentration camp created in Germany, and what was its purpose?

DEFENDANT POHL: The first concentration camp which I knew of which I saw, was the concentration camp of Dachau. What other concentration camps existed apart from Dachau I do not know from my own knowledge. I heard that in 1933 smaller camps already existed in the shape of police camps in central Germany, and apart from that in northern Germany near Esterwegen, E-s-t-e-r-w-e-g-e-n, which in itself was supposed to have been a justice camp, later on inmates were also billeted. The first camp namely, Dachau, was a camp in which first of all were incarcerated the political opponents of the regime. After the seizure of power the Reich government endeavored to make sure that those persons who were opposing the new regime or who could oppose the new regime would not hurt the government by putting them in con-

centration camps. The first camp of this sort which I knew was Dachau.

Q. Who was it created the Dachau camp and who was the first commandant?

A. The first commandant of Dachau was the then Oberfuehrer Eicke, who also took care of the installations.

Q. Will you give us a short description of the personality of that commandant, who later on became the inspector of concentration camps with the rank of an SS Obergruppenfuehrer, or rather attained the rank of SS Obergruppenfuehrer?

A. Eicke, as his physique would show, was strong of will; hard, to the point of ruthlessness; unafraid; qualities which during the fighting time, that is, before we took over the power, led to strong political and police persecutions against Eicke. That was the reason why before 1933 he had to flee from Germany, and he spent a considerable time in Italy. Gradually a group was formed in Italy under Eicke's leadership. When, after the seizure of power, Eicke returned, he was put in charge of the installation and leadership of the first concentration camp by Himmler. As collaborators and helpers he used all those men with whom he had been in Italy.

According to my conviction, with reference to the development of the concentration camps, it was a misfortune that that man in particular was put in charge of their leadership, because Eicke, as I already mentioned before, in his nature already was very hard and ruthless. He and his men also looked upon every political opponent as their personal enemy who had to be destroyed, and that opinion prevailed even after Eicke's release, that is, shortly after the beginning of the war, within the ranks of those men who had gone through his school, in other words, within the ranks of the protective custody leaders and block and commando leaders. It prevailed secretly and it developed into those cruel acts we saw in concentration camps. Eicke himself considered or regarded the concentration camp as his own sphere of power and he guarded it against any intruder. I myself had quite a few clashes with him in my endeavor to change the administrative orders of the Reich for his particular sphere of work, or rather to put them into effect in his particular sphere of work. However, we shipped all these regulations and unfortunately he was supported rather than impeded in this by Himmler. Eicke, with reference to his mental capacity, was above the average. He was an industrious and hard-working man and he worked himself up from a simple private to a successful divisional general.

Q. Persons were turned into the concentration camps on the basis of a protective custody order, isn't that correct? That pro-

tective order had its legal basis in the order of 28 February 1933, which was issued as an emergency order by Hindenburg at the time. That particular regulation has the following title: "Decree of the Reich President for Order and Protection of the State." It is signed by Hindenburg, Adolf Hitler, the Reich Minister of the Interior, Frick, and Justice Minister Guertner.

MR. ROBBINS: It seems to be that this is an extremely leading question. Dr. Seidl has been talking here for three minutes, and then he asks the witness, "Is this correct?" I should think he could state his question in more concise form.

PRESIDING JUDGE TOMS: Is the order of Hindenburg which you are reading—is that in the document books?

DR. SEIDL: Your Honor, this order, or rather decree, of Hindenburg is not in the document book. However, the International Military Tribunal in its sentence referred to that particular decree and that is the reason why I didn't think it necessary to read the text of this decree, which is rather short. The prosecution itself did not introduce the decree.*

PRESIDING JUDGE TOMS: The objection is that your question is too long. What do you want the witness to say? What do you ask the witness now?

DR. SEIDL: The witness, after I have told him the basic law of that particular custody decree, is to state what agencies could issue protective custody orders.

PRESIDING JUDGE TOMS: All right, that is the question. The witness may answer.

DR. SEIDL: Witness, you just heard my question. Would you tell me now who at the respective times was entitled to issue protective custody orders?

DEFENDANT POHL: As far as I know, protective custody orders could only be issued by the Reich Security Main Office [RSHA], in other words, the Secret State Police or Gestapo.

Q. And nothing changed in that matter until the end of the war?

A. I know of no change.

Q. In the concentration camps, in other words, there were prisoners who had been sent to the concentration camps on the basis of a protective custody order of the Gestapo or the Reich Security Main Office. The agency or office which was in close connection with these camps in other words was the Gestapo, or then later on the RSHA. It would be only too logical to put the concentration camps under the RSHA or the Gestapo. Why didn't that take place?

A. The reasons for that are not known to me. All I can give you

* An extract from the Decree of President Hindenburg was later introduced in evidence as Document Volk 25, Volk Defense Exhibit 13, and is reproduced on p. 417.

is my presumption, and I presume that it is correct if I say that the reasons lie in the personality of Eicke and Heydrich. The concentration camps, according to the law, according to the Gestapo law of 1936, undoubtedly lie in the administration of the Gestapo, because in that particular law it says clearly the state concentration camps will be administered by the Gestapo or Secret State Police. In other words, at the time the necessity would have existed to place Eicke, SS camp commandant, under the orders of Heydrich, who was in charge of the Gestapo. Eicke, however, was the man who by far had the longer time in service and was older than Heydrich. Heydrich was the more intelligent, more ambitious man, and as far as I know their relationship, and as far as I could observe it in the course of the years, there were quite a few tensions, and I am convinced that Eicke wouldn't have served under Heydrich's orders. That seems to have been the reason for Himmler to place the concentration camps, and later on the Inspectorate of Concentration Camps, outside the jurisdiction of the Gestapo or the RSHA, respectively, as an independent organization. I cannot think of any other reasons.

Q. What other prisoners were in the concentration camps, I mean, apart from the political prisoners?

A. In the course of the years many groups of people could be encountered in the concentration camps; asocial elements, conscientious objectors, Jehovah's Witnesses, professional criminals, homosexuals, and other groups.

Q. Who was in charge of putting these people into concentration camps—responsible for it, rather?

A. All the persons who were sent to the concentration camps were sent every time by the Gestapo.

Q. Then the Reich criminal police office did not have anything to do with it?

A. I don't know that.

Q. How did the RSHA and particularly the Gestapo—in other words, Office IV of the RSHA—take care of their State police affairs in the concentration camps? How did it deal with those matters?

A. In every concentration camp, as an outside office of the RSHA, there was the so-called department 6. Through that office the RSHA took care of their matters in concentration camps.

Q. The department 6, in other words, was the long arm of the Gestapo or of the RSHA in the camps. Is that correct?

A. Yes. That is correct.

Q. What, in detail, were its matters that the political department dealt with in the concentration camps?

A. The political department was in charge of all the matters of

inmates as far as they were of a police nature. For instance, interrogations, all the files of the inmates, transfers, and all other things that had to be taken care of through the police matters. The tasks were carried out by officials, by criminals officials, who had been transferred to the camps by the Reich criminal office. These officials, during their activity in the camps, also were under the supervision of the RSHA. They were under the RSHA economically and in disciplinary matters.

Q. The camp administration, with reference to what you just said, what were their tasks?

A. The camp administration had to take care of economy and also the guarding of the concentration camp people. By "economy" I mean the billeting, feeding, and clothing of the inmates, as well as of the guards.

Q. Is it correct, therefore, when I say that neither the inspector of the concentration camps nor the chief of the Gestapo, or the RSHA respectively, could be chief of the concentration camps because one superseded the other's field of activities?

A. Yes. That is correct.

Q. In other words, who could be called the chief of the concentration camp?

A. If there ever was such an official position, and if there had been such an official position, then Himmler himself would have been the only one who could have taken care of that, and he alone could have been chief of concentration camps.

Q. What were the tasks of the camp commandant, in detail?

A. The camp commandant had to take care of the guarding in the camp. Furthermore, with the help of his officials who assisted him, he was in charge of the feeding, clothing, and billeting of the guards and inmates. Furthermore, he was responsible for the medical care. For all those tasks he had collaborators; he had an administrative leader and also the necessary medical equipment, as well as the doctors.

Q. What were the groups of the SS that formed the guards? How were they organized; under whose supervision were they?

A. The guarding of the concentration camps in the course of years varied. When I came in 1934, the situation was like this: Eicke recruited the guards himself. He took young people who hadn't been in the service yet, and older age groups who had already complied with their military service. The time of service with reference to the guards in the concentration camps was not computed with the service served in the army. Later on from those guard groups which was not a compact group the Death Head Standarten developed. With these Death Head Standarten the time of service was computed together with the army service.

In other words, they were already soldiers. With reference to the entire organization, they were formed, trained, and paid according to army regulations. When Eicke, at the beginning of the war formed the Death Head division, he transferred the Death Head Standarten that already existed into that division. There remained only Sturmabteilungen [battalions], which then, later on, were kept as independent "Wach" [guard] Sturmabteilungen. As a result, they were called according to the names of the camps, for instance, Wachsturmbann Dachau or Mauthausen. The highest number of guards, I believe, was in 1944, approximately 35,000 men. Out of those, 6,000 were SS members, and the remainder came from the Reichskriegerbund Kyffhaeuser [Reich War Veterans Legion], the home guard, or "Volksdeutsche" [ethnic Germans]. The army and the air force also provided guards. And that makes the situation, approximately as it prevailed in the second half of 1944.

Q. With reference to the camp commandant, the protective custody camp leader, and the leader of the guard Sturmabteilung—they were under the supervision of the camp commandant?

A. Yes. That is correct.

Q. What do you understand by "protective custody camp" as opposed to the regular concentration camp?

A. The protective custody camp was that part of the concentration camp in which the inmates were billeted.

Q. Where was the entire administration of the concentration camp lodged, and where were the administrative and supervisory offices of the Sturmabteilung, of the guard Sturmabteilung?

A. The administration of the concentration camps or, rather the Kommandantur, was lodged outside of the protective custody camp, however, still within the area of the concentration camp. As far as the guard Sturmabteilung was concerned, they were not always lodged within the area of the concentration camp. In other words, not within the barbed wire fences of the concentration camp. There were also camps in which the guard Sturmabteilung was outside of the actual concentration camp, however, immediately next to the concentration camp.

Q. Where was the office in charge of the camp administration, and where was its office?

A. The superior office of the administration was the administrative office [Verwaltungsamt]. Later on, the Amt D IV, in the Inspectorate of Concentration Camps.

Q. How many camps existed until the beginning of the war?

A. Until the outbreak of the war there were six camps.

* * * * *

DR. SEIDL: I will ask you a question now in reference to the various individual camps. The camp of Dachau was constructed

in 1933 and was increased more and more in the course of years. I shall ask you: What was the normal capacity in that camp, and what was the maximum number of inmates in the camp at any one time, as far as you can recall?

DEFENDANT POHL: I can only give you these figures to the best of my knowledge, anyway. With reference to Dachau I believe I can be able to say the normal strength was 25,000, the highest capacity was approximately 60,000; and I also know the number of labor camps, approximately. I say about 20 in Dachau.

Q. Then these work camps which you say numbered 20 are comprised within the 25,000 to 60,000 inmates. Is that correct?

A. Yes. The 60,000 inmates were distributed over the main camp Dachau, and also the 20 labor camps.

Q. When the concentration camp of Sachsenhausen was created, according to your recollection, what was the normal capacity of the camp, and what was the maximum number of inmates in the camp. I would like to add at this point that there was a change in the name of the camp. That is correct, is it not, that the name of the camp before was Oranienburg?

A. The name had not been quite decided upon there. We had called it Sachsenhausen and Oranienburg. Sachsenhausen was created in 1936. Normally there were 20,000 inmates, and the maximum count was from 30,000 to 35,000 inmates with possibly 15 labor camps.

MR. ROBBINS: May I ask for the record if Dr. Seidl will state the nature of the notes from which the witness is reading.

DR. SEIDL: I asked the witness that he should tell the figures according to his recollection, and I believe that the witness is referring to a small slip of paper on which he has the approximate figures in order to refresh his memory. However, I did not know that. I shall ask the witness himself to elucidate on the question.

DEFENDANT POHL: I have my diary here. Of course, I have certain notes which I refer to for these names, which would be difficult to remember all the figures by heart. I started from those figures which I could remember. In other words, particularly in this case, the maximum number of inmates were 600,000 towards the end of 1944, according to the best of my knowledge and ability, which I distributed all over the camps. That is why I made notes. I did not find anything in the documents.

PRESIDING JUDGE TOMS: Answering your question, Mr. Robbins, the witness is testifying from a personal memorandum. All right, while I am at the microphone, we will take a recess.

[Recess]

DR. SEIDL: Witness, when was the Buchenwald concentration camp established, as far as you can recall? What was the normal

capacity of this camp, and what was the maximum number of prisoners who were in the camp at any one time, as far as you remember?

DEFENDANT POHL: Buchenwald was established in about 1937. Its normal capacity was 20,000 to 25,000 prisoners, and the maximum number of prisoners was approximately 50,000. I estimate that there were approximately 80 to 100 labor camps.

Q. When was the concentration camp Flossenbuerg established? What was its normal capacity, and what was the maximum number of prisoners at any one time in the camp?

A. Flossenbuerg was established in approximately 1938. Its normal capacity was 20,000 men. The highest number of prisoners was 30,000 to 40,000, and there were approximately 20 to 25 labor camps.

Q. The only women's concentration camp was the concentration camp Ravensbrueck. When was this women's concentration camp established? What was its normal capacity, and what was the highest number of prisoners at any one time in the camp, as far as you can remember?

A. Ravensbrueck was established in 1938. Its normal capacity was approximately 15,000. Its top strength was 25,000 to 30,000, and it had approximately 20 labor camps.

Q. One of the largest concentration camps was the Mauthausen concentration camp. When was this camp established, and how many prisoners were inside this camp?

JUDGE MUSMANN: Dr. Seidl, before you leave the women's concentration camp, I would like to inquire who supplied the women's concentration camps with their inmates. Where did they come from?

DR. SEIDL: Witness, the Tribunal would like to know of what groups of persons the inmates of this women's concentration camp consisted. Can you give us any statements on that subject, if they were mainly German women, or if they were mostly foreigners? I think that was the question of the Tribunal.

JUDGE MUSMANN: Yes.

DEFENDANT POHL: The transfer took place through the Gestapo. I myself could not see from the available documents where these people came from, what their nationality was, or why they had been sent to this concentration camp. I do not know any other details about that.

DR. SEIDL: How big was the Mauthausen concentration camp, Witness?

DEFENDANT POHL: The Mauthausen concentration camp was established in 1938 and, together with camp Gusen, which was in its immediate vicinity, had a normal capacity of approximately

40,000. Its top strength was approximately 70,000, and it had approximately 15 labor camps.

Q. The biggest concentration camp was Auschwitz, if I am informed correctly. Where was this camp located, when was it established, and how many prisoners were located inside the camp at the various times?

A. Auschwitz was established in 1941. It had a normal capacity of 80,000, and its top strength was 140,000.

PRESIDING JUDGE TOMS: Eighteen thousand?

DR. SEIDL: Eighty thousand.

DEFENDANT POHL: Its top strength was 140,000, with approximately 60 labor camps.

DR. SEIDL: What were the conditions with regard to the Neuengamme concentration camp?

A. Neuengamme was also established in 1941. It had a normal capacity of 20,000 to 25,000 people. Its top strength was approximately 50,000, and it had approximately 60 labor camps.

Q. What were the conditions with regard to the Lublin camp?

A. Lublin was established approximately in 1942. Its normal capacity was 15,000. Its top strength was 20,000 to 25,000, and it had 10 labor camps, approximately.

Q. The camp Stutthof was also established in 1941, or that is to say, it was taken over as a concentration camp. How big was this camp?

A. It had a normal capacity of approximately 15,000. Its top strength was 20,000. It had approximately 10 labor camps.

Q. What were the conditions with regard to the Natzweiler concentration camp?

PRESIDING JUDGE TOMS: Which one?

DR. SEIDL: Natzweiler.

DEFENDANT POHL: Natzweiler was also established approximately in 1941. It had a normal capacity of about 15,000 prisoners. Its top strength was 20,000 to 25,000, and it had approximately 10 labor camps.

Q. When was the camp Gross-Rosen established, and what were the conditions with regard to this camp?

A. Gross-Rosen was established in 1941. Its normal capacity was 10,000 to 12,000. Its top strength was approximately 20,000. It had approximately 70 labor camps.

Q. When was the camp at Nordhausen established? What was its normal capacity and what were conditions there with regard to this camp?

A. Nordhausen was established in 1943. It had a normal capacity of approximately 20,000 prisoners. Its top strength was

approximately 35,000. I do not think it had any labor camps for itself, but I do not know that exactly.

Q. The last camp which we want to discuss is the camp at Bergen-Belsen. How big was this camp, and when was it established?

A. Bergen-Belsen was established in 1943. It was supposed to hold 10,000 people and I believe that 15,000 people were sent there. It had one labor camp.

Q. If I understand you correctly then, with the exception of a few camps, most of them already existed when on 1 May 1942 [sic], the decree of Himmler became effective, which ordered that the Inspectorate of the Concentration Camps be incorporated into the WVHA. After that time only a few new camps were established.

A. Yes. Most of the concentration camps existed already at that time.

Q. In order to clarify one point completely, the figures of prisoners which you have mentioned, refer to the camps and to the labor camps which belonged to these concentration camps, so that only a relatively small number could have remained in the concentration camp itself while the other part was employed in the labor camps, is that correct?

A. Yes. That is correct.

Q. With a careful estimate, on the basis of your memory, how many concentration camp inmates were there at the end of 1944?

A. I calculate approximately 600,000, for the end of 1944.

Q. What was the number of prisoners who were employed in private armament industries?

A. Towards the end of 1944 there were approximately 230,000 to 250,000 prisoners employed in the private industries.

Q. According to your estimates, how many prisoners under the authority of the Reich Minister for Armament and War Production were assigned to the construction of subterranean works?

A. These were the prisoners who worked for the Special Staff Kammler which carried out this work by order of the Reich Ministry for Armament and War Production. There were approximately 170,000 prisoners.

Q. In how many construction places for subterranean decentralization were these prisoners working?

A. I estimate approximately 20 to 25 big construction places.

Q. Another part of the prisoners which was not directly working for private armament industries, but for important tasks of the Reich had been organized in the so-called construction brigades. What was the purpose of these construction brigades? How many of these construction brigades were in existence, and how many prisoners were assigned to them?

A. There were 10 construction brigades to which later on 5 railway brigades were added. Each construction brigade had a personnel strength of approximately 1,000 men. It was subordinated to a leader who came from the concentration camp personnel and who directed it militarily; and it also had a technical leader who belonged to Amtsgruppe C. The same thing applied to the railway brigades. The construction brigades were to repair the damages which had been caused by air attacks at armament plants. They were fast mobile units which within a very short period of time could move from one place to another. This employment took place by order of the Reich Ministry for Armament and War Production; the railway brigades were organized in exactly the same manner. They were primarily to repair communication damages, which had been caused by air attacks. Their assignment took place through the Reich Ministry of Communications. All 15 brigades together had a strength of approximately 15,000 men.

Q. How many prisoners of the concentration camps were used for the construction of the Fuehrer's headquarters in Thuringia?

A. I estimate that there were approximately 10,000 to 12,000.

Q. Another part of the prisoners who worked directly for the Reich, worked for the so-called construction inspectorate. What were the tasks of the construction inspectorates? How many inspectorates of this kind were in existence, and how many prisoners can you recall worked for these inspectorates?

A. The construction inspectorates belonged to the construction organization of Amtsgruppe C. There were four construction inspectorates; Reich North, Reich South, Reich East, and Reich West. They were directly subordinated to Amtsgruppe C and they were independent provincial agencies. Subordinated to them were the central construction agencies and the construction agencies. I estimate the total figure of prisoners who worked within the field of competence of these construction inspectorates as 40,000 to 50,000.

Q. Another part of the prisoners were used in quartermaster offices, in building camps, in repair shops, and so on. How many prisoners, as far as you can remember, were used for this sort of work?

A. In all the remaining plants, that is to say, the quartermaster offices, the big repair shops, and also in the camp services itself, that is, for the maintenance of order within the camp, I estimated a total figure of 120,000 to 130,000 men that is, for all camps and all purposes.

* * * * *

Q. If the Gestapo or another agency of the RSHA, for example

the Reich criminal police as Office 5 of the RSHA, committed a German or a foreign national to a concentration camp, was this in any connection then with the allocation of labor, or were only security reasons responsible for that?

A. For the commitment into a concentration camp, only the police or the Security Police were of decisive importance. I do not know that reasons of labor allocations would have been decisive for that. I have never been asked by any agency, for example, how large the requirements for the labor allocations were, that is to say, to fill up certain gaps. I have never had any negotiations with any agency, either Sauckel's agency or the RSHA, to the effect that the number of prisoners was not sufficient in order to meet the requirements; to the contrary, in these cases I told the plant owners, "I do not have sufficient people. I cannot give you any." I did nothing whatsoever to increase the number of prisoners.

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CROSS-EXAMINATION

MR. ROBBINS: Will you turn to Document NO-500, which is Prosecution Exhibit 55, at page 50 of the German document book, at page 45 of the English document book 3. It is a letter from Himmler to Gluecks, and in this letter, or cable, Himmler states that he is going to send 100,000 male Jews, and 50,000 Jewesses into concentration camps during the next week. It is dated 25 January 1942. He said, "The concentration camps will have to deal with major economical problems and tasks in the next weeks. SS Gruppenfuehrer Pohl will inform you of the particulars." Did you inform Gluecks of the particulars in this case?

DEFENDANT POHL: I cannot recall that exactly. In January 1942, however, I didn't think that we were confronted by a greater task at that time, and I am rather led to assume that this was the transfer of the armament industries into the concentration camps, which began in the middle of June 1942.

Q. And the construction and operation of those ammunition plants were under you, is that correct?

A. Yes. They were constructed by our construction agencies in the concentration camps, and the technical execution, above all the planning, was dealt with by Staatsrat Schieber the armament Referent, who was responsible and competent for the transfer.

Q. You knew, did you not, or that you were told in January 1942 that 100,000 male Jews and 50,000 Jewesses were to be sent to concentration camps?

A. I don't believe that I received knowledge of that at the time, because the transfer to concentration camps did not concern me

at the time, not with regard to the allocation of labor. I cannot remember today that I was informed by Gluecks. However, there was no reason for him to do it at the time.

Q. You had occasional conferences with Gluecks, did you not?

A. Not at that time, no. Not before April 1942. At that time I did not see any more of Gluecks than anybody else. At that time we did not have any official contact.

Q. So you state that you were not informed that 150,000 Jews were to be sent to the camps?

A. I cannot remember that I was informed of this in January 1942.

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EXTRACTS FROM TESTIMONY OF DEFENDANT FRANK *

DIRECT EXAMINATION

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DR. RAUSCHENBACH (counsel for defendant Frank): To speak once more about financing of concentration camps, you told us just now that in 1936 the Inspectorate of Concentration Camps had submitted his first budget.

DEFENDANT FRANK: Yes. Before then it had been the provinces [Laender] Prussia, Bavaria, and Saxony. These provinces Bavaria, Saxony, and Prussia, Eicke would negotiate with directly. The Prussian Finance Minister had a permanent deputy or delegate with Eicke when—

Q. Therefore, concentration camps existed for three years before the administrative office started financing them?

A. Yes.

Q. Do you know how many concentration camps existed before the financing was transferred to the Reich?

A. No. I am unable to say that for certain, but what I can say is that in the first budget of 1936 the camps of Dachau, Sachsenhausen, Buchenwald, Ravensbrueck, Mauthausen, and Flossenbuerg were listed.

Q. Up to what period of time were you busy working on the budgets of concentration camps?

A. Up to 1 April 1939.

Q. And how many concentration camps were there at that time?

A. I must make a correction of my previous statement. There were only five camps that I was connected with for the first time with the budget for concentration camps, and when I handed it over there were six camps, that is, the six which I have named before.

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* Complete testimony is recorded in mimeographed transcript, 5, 6, 9, 10 June 1947; pp. 2281-2487 and 7410-7417.

JUDGE PHILLIPS: Witness, I want to know if I have this right. I understood you to say that up to and prior to 1936 that a German inmate in a concentration camp was allocated 60 pfennigs per day for sustenance if he was not working and 80 pfennigs per day if he was employed or was working, is that correct?

DEFENDANT FRANK: For food, yes.

Q. Just for food alone, and not for clothes?

A. Yes.

Q. What was the allocation after 1936, say for instance, after the war began?

A. It was the same thing until the moment the war started.

Q. During the war what was the allocation?

A. From the moment of the outbreak of the war the sum of money was no longer important but the food that was available [was important]. In other words, what was important and decisive was what the Reich Food Ministry had put at our disposal. That was the dominating factor and not the amount of money. In other words, if the Reich Food Ministry had allocated a certain amount of food for the inmates which through unusual circumstances had become more expensive so that an amount of 70 to 90 pfennigs had to be spent on food per day, then the administrative leader could also say 90 pfennigs. That was quite all right. The monetary limitations had been rescinded as of the outbreak of the war.

Q. In other words, after the war there was not any specific amount allocated but they were supposed to furnish them sufficient food?

A. No, no. He could "move" [spend] from 60 pfennigs up to a mark and a mark and a half.

Q. At his discretion?

A. No. It was not at his discretion, but it depended entirely on the allocation of food. Let us take another example, for instance the competent food office, that particular office that was responsible for the concentration camp one day allocated say meat, fat, and other food which was more expensive, then the food allocation on that particular day for the inmates could amount to 90 pfennigs. The following day there were perhaps only beans and potatoes there for allocation, and then the cost could only be 40 pfennigs. In other words, the decisive factor was not how high the ration could be according to the monetary situation, but it was decided by what the Food Ministry had allocated. These sums were paid by the administrative leader.

Q. In other words then, the Food Ministry could allocate food up to a certain amount or down as low as a certain amount, between those brackets for the concentration camp inmates?

A. Yes. The rations had been fixed, and the food was allocated within that margin. The Food Ministry did not bother about the cost of the food.

Q. Now, who was responsible to see that they got the food that was allocated by the Food Ministry?

A. The administrative leader of the concentration camp.

Q. That was the camp commandant?

A. No. He was the manager of the accounts. He had to see to it that the food which had been allocated to him by the Food Ministry would actually reach the dishes, or shall we say the plates of the inmates. The concentration camp commandant had the official supervision. That of course, meant that he also had to concern himself with that. If for instance, the administrative leader through negligence let his potatoes become spoiled because he didn't stock them properly, then the concentration commandant could, or had to warn him, and also punish him because he did not take proper care of the particular ration he was allocated, and because he did not distribute it to the inmates.

Q. Who appointed the administrative leaders?

A. The Administrative Leader was named by the WVHA, that is, by the Personnel Main Office. The WVHA made the suggestion and recommended him. The appointment was made by the Personnel Main Office, and the assignment also.

Q. And under what Amt in the WVHA was the administrative leader responsible, to report to?

A. You mean the man who made the suggestion? That was Pohl himself.

Q. No. You didn't—I will ask the question again. To what branch of the WVHA was the administrative leader required to make his report?

A. What report do you mean, your Honor?

Q. The reports of the food allocation, what he did with the food in the concentration camps.

A. He had to make the report only when there were certain deficiencies. In other words, if everything worked out all right and the food was sufficient, then he did not have to write up a report, and he was not supposed to give one either.

Q. Well, who inspected him from the WVHA to see that he did that?

A. Would you repeat the question, please?

[The question was repeated by the interpreter.]

A. Nobody from the WVHA. The WVHA was a ministerial level which did not have to deal with those things, and could not deal with them.

Q. Who inspected him to see that he gave the food that was allocated to the prisoners, to the prisoners?

A. The commandant.

Q. The commandant? Well, did the commandant then—was he responsible to report to anybody as to the food of the inmates?

A. If he had the impression that the administrative leader, either through his inability or by embezzling the food, did not comply with his duties, then he reported that to Amtsgruppe D, namely to the Inspectorate of Concentration Camps. Then he would either have the man relieved from his duties because of inability, or he would have him punished.

Q. But if the inmates did not get the food, and the commandant did not care whether they got the food or not—nobody would know anything about it. Is that correct?

A. No. Then it would become apparent only when the Inspector of Concentration Camps made his visit in that particular camp, and if it struck him that the inmates looked starved. Otherwise, nobody could actually find out about it.

Q. Well, did Amtsgruppe D ever make any report from any of these camps that people were starving to death there?

A. I couldn't tell you that because I had nothing to do with it.

Q. All right.

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EXTRACT FROM TESTIMONY OF DEFENDANT FANSLAU *

CROSS-EXAMINATION

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MR. ROBBINS: Witness, in addition to the so-called racial groups in the concentration camps, racial groups who were incarcerated in the concentration camps, you also knew that there were other groups of inmates, such as the Bible Research Workers, did you not?

DEFENDANT FANSLAU: Yes, I did.

Q. And Jehovah's Witnesses?

A. They are the same as you just mentioned.

Q. This is called "Bibelforscher?"

A. Yes. They are also known as Bibelforscher.

Q. You also knew that another group consisted of trade union members, did you not?

A. Trade union people?

Q. Yes. Labor unions.

A. No.

* Complete testimony is recorded in mimeographed transcript, 11, 12 June, 27, 28 August, 3 September 1947; pp. 2531-2676, 6973-7048, and 7857-7866.

Q. You did not know that groups of trade union people were incarcerated in the concentration camps?

A. What groups you refer to, if these were trade union people, I don't know anything about it. I knew that they were political enemies before and after 1933. However, I don't know what individual groups were included in the concentration camps and who, individually, were sent there.

Q. Did you ever find out that trade union members were sent to concentration camps, even up until today?

A. It may be that I have read about it somewhere, but I cannot recall any particular details.

Q. You also knew, did you not, that prisoners of war were incarcerated in concentration camps?

A. I did not know that about prisoners of war, unless they were sent there through certain decrees of violations of decrees which were issued. To what extent this applied to Russian prisoners of war I did not know either. It may be possible that Russian prisoners of war were transferred for some reason or other and were committed to concentration camps.

Q. It is not only possible, it is highly probable. You know that today for a fact?

A. I know it today, yes.

Q. When did you first find out about it?

A. I say I know it today from the documents, and that I considered it possible at the time.

Q. What decrees were you talking about when you said that some prisoners of war were sent to concentration camps by decree?

A. Well, I said I did not know any details. Perhaps because they had committed some offenses, or perhaps some other directives. I don't know the regulations in detail which caused them to be transferred to concentration camps. If I ever obtained knowledge of any particular case through the press or through my correspondence or through passing orders, which is possible, this was not any particularly official point, as I would still remember this today, or it would have remained in my memory from that time.

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MR. ROBBINS: Did you think that all of the people who had been sent to concentration camps had been given a hearing?

DEFENDANT FANSLAU: Yes, I believed that; in all cases I believed that they had at least been interrogated, if they were not given a trial.

Q. Did you think that they had all been given a trial?

A. Yes. In all cases.

Q. What kind of a trial did you think they had been given, and by whom?

A. Well, at least the denunciation had to be there, or a record must have been made that the person had committed such and such a crime, or that in certain points, laws, military security measures, regulations, or police measures, he had committed some sort of offense.

Q. That was usually the extent of the trial, wasn't it, just what you have described?

A. Yes.

Q. Did you ever see a protective custody order, Witness?

A. No, I don't know anything about them.

Q. When one of your relatives was sent to a concentration camp, didn't you see the protective custody order?

A. No. I stated that I heard the first news from my relative himself, and then afterward I first of all contacted the police president by telephone in order to find out exactly what was going on.

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EXTRACTS FROM TESTIMONY OF DEFENDANT SOMMER *

DIRECT EXAMINATION

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DR. BELZER (counsel for the defendant Sommer): The reasons why you wanted to withdraw from office D II [in the summer of 1943] were more of an economic nature, so to say, because you couldn't possibly get an independent position?

A. Yes, that is correct. I wanted to have an independent position and at the same time I wanted to have a higher salary.

PRESIDING JUDGE TOMS: At the time Maurer took you into the SS in July, 1942 were you a civilian?

DEFENDANT SOMMER: Yes, indeed, your Honor.

Q. Outside of your membership in the Allgemeine SS, you had no connection with the Waffen SS until July 1942?

A. No, your Honor. I was a reserve officer of the army on leave and I was under the supervision of the army.

Q. And when you were working in DEST you were a civilian?

A. Yes. I was a civilian employee.

DR. BELZER: From your answer, Witness, I understand that your attempt to withdraw from office D II and to be transferred to another office was not caused by the knowledge that your activity in office D II was of an immoral nature, an act against the law, perhaps even a criminal action?

* Complete testimony is recorded in mimeographed transcript, 30 June, 1, 2 July 1947, pp. 3653-3878.

DEFENDANT SOMMER: No. That was not the reason.

Q. Did you actually think of something like that?

A. No.

Q. The concentration camps, as such, did you think they were criminal installations?

A. No. I didn't. The concentration camps existed since 1933 or 1934. They were State institutions. The man who could send people to the concentration camps was Heydrich. He was the same Heydrich who in 1937, if I can recall correctly, became the President of the International Criminalistic Association. According to what one could read in the German papers he had been promoted to such a position in his capacity as having scored lots of scores while preventing crime in Germany.

Q. According to your opinion before your entry into office D II, what was the task and purpose of the concentration camp?

A. When I joined the DEST, the German Earth and Stone Works, G.m.b.H., I found a file there wherein decrees and regulations of the Ministry of Justice were contained with reference to the labor assignment question of Jewish prisoners. The Jewish prisoners were to be used in stone quarries, brick factories, calcium factories, etc. In the concentration camp I saw a special way in which to carry out penal servitude and with which the State could actually fight crime. The inmates were assigned there for rehabilitation purposes, just the same way as it worked with all the other penal institutions of justice. All these instructions and all these decrees, which I found in the DEST, originated from before the war, and according to them it was the German attitude toward work that it was the duty of every human being who was able to work and that particularly applied during the war. The concentration camps, according to my opinion, had the purpose of re-educating or educating the people by giving them work.

Q. Did you on the basis of your activity in office D II find any reason to change your idea about the purpose of the concentration camps, and I mean by that, due to the fact that there were also foreigners in the concentration camps?

A. No. I never heard that human beings were being sent to concentration camps for the sole reason that the WVHA or the concentration camps were a pool for labor for the civilian industries, even military industries. During my activity in office D II, I never saw a single order by which it could have been understood that it was the specific purpose of the concentration camps to abuse human beings or to work them to death. On the contrary, in all the orders and decrees I noticed one thing, namely, it was necessary to treat the inmates in a humane way and to

restore their ability to work. That concerns the orders that I saw.

Q. Did you know that prisoners of war were sent to concentration camps? Did you know that they were used by office D II as workers?

A. No. It was only in a single instance that I saw PW's in the concentration camp. I saw those PW's when they were climbing into a bus in front of the concentration camp and they drove away. When I walked into the camp which was a protective custody camp, Sachsenhausen, I saw a few barracks which had been separated by barbed wire, and there was an inscription on that barbed wire, "PW Camp." I inquired then what kind of a special PW camp within a concentration camp that was, whereupon I was told that that was a camp for operation "Zeppelin". I couldn't find out any more about it at the time. When I entered the protective custody camp of Sachsenhausen some time later, the PW camp no longer existed. The inmates in the meantime had been sent to the barracks in Oranienburg. Later on I found out that operation "Zeppelin" trained Russian prisoners of war who had volunteered for that purpose in order to drop them as saboteurs on the other side of the lines and use them against the Russians. That was the only time that I had any contact with prisoners of war in the concentration camps.

Q. During the war the religious sect of Jehovah's Witnesses were also sent to the concentration camps. How can you actually reconcile that with the use you thought that they could propagate their pacifist thoughts.

A. As far as I know, Jehovah's Witnesses could be released from a concentration camp immediately, if they volunteered, by signing a form that they no longer believed in their conscientious objections. According to what I know, according to my statistics, there were approximately 500 Jehovah's Witnesses in the concentration camps. By that I mean 500 men and 500 women.

Q. Were these conscientious objectors or Jehovah's Witnesses forced to do the same work as all the other concentration camp inmates?

A. The Jehovah's Witnesses did not have to be placed under guard. That means that they never attempted to escape from the concentration camp. At least that is the way I understood it. That is one of the main reasons why they were assigned to special duties. Female conscientious objectors were sent to large families as household assistants.

Q. Which were the concentration camps which were under the subordination of the WVHA, Witness?

A. The WVHA was in charge directly of the concentration

camps of Auschwitz, Buchenwald, Dachau, Flossenbuerg, Gross-Rosen, Mauthausen, Natzweiler, Neuengamme, Mittelbau—which was also known under the name of Dora—Ravensbrueck concentration camp, Sachsenhausen, Stutthof, Bergen-Belsen, and Hertogenbosch in Holland. Indirectly, they were in charge of the concentration camps in the Government General of Poland and in the Eastern and Baltic countries. The WVHA was never in charge of the camp Treblinka, Sobibor, Trawniki, Belsec, and Majdanek, which were quite independent in their allocation of labor.

Q. Would you please state briefly the indirect subordination of the concentration camp under the WVHA in the GGP [Government General Poland] and the Eastern territories?

A. I mean indirectly insofar as the SS Economist with the Higher SS and Police Leader was the immediate supervisor of those concentration camps and in his decisions as far as labor assignment was concerned at least, he was absolutely independent. He only had to inform Amtsgruppe D afterwards of the measures he had taken, and Amtsgruppe D had to inform Pohl about those things.

* * * * *

DR. BELZER: Which ones of the concentration camps which you mentioned before did you ever visit?

DEFENDANT SOMMER: I visited the concentration camp of Auschwitz twice. That was in the summer of 1943 and in November of 1944. In the summer of 1943 I only visited the protective custody camp for approximately half an hour.

JUDGE MUSMANNO: Where was that? The protective custody camp, where was it?

DEFENDANT SOMMER: That was Auschwitz, your Honor. I was in the concentration camp of Buchenwald towards the end of 1944 after I had made an official trip to Ohrdruf. I was in Dachau once in the autumn of 1943 on the occasion of an official trip to the Sudelfeld where I had to give the mail to Maurer, and during the course of which there was an air raid on Munich. This was the reason that I could not return immediately. I was with the protective custody chief for about one hour and a half. I was in Gross-Rosen once in the summer of 1943. At the time I had received an order to assist the classification experts of Krupp's on selecting specially skilled workers for this factory. The classification analyst of the firm of Krupp did not appear in Gross-Rosen at the time, and no selection was carried out. I visited the protective custody camp then for a very short period of time.

I was in Neuengamme in February 1942 on the occasion of a conference of labor assignment chiefs. I did not see the protective

custody camp at the time. I was in Ravensbrueck perhaps two or three times; but I only entered the protective custody camp in April 1945 one time. The protective custody camp of the concentration camp of Sachsenhausen I believe I visited 10 to 15 times in order to control the watch repair shops there. I was in Stutthof once in the winter between 1942 and 1943; and I also visited the protective custody camp then. I was twice in Bergen-Belsen, in June 1944 for the first time, and then on 28 March 1945 towards 11 o'clock in the evening. During that visit I only spoke with the commander for approximately 10 minutes; then I proceeded on my trip to Berlin. I was coming from Celle. I visited the concentration camp of Mittelbau, or Dora, together with Gluecks between Christmas and New Year's, 1942; and it was not then an independent concentration camp but just a labor camp of the concentration camp of Buchenwald. I never visited the concentration camps at Flossenbuerg, Mauthausen, Natzweiler, or the concentration camps in the occupied territories.

* * * * *

PRESIDING JUDGE TOMS: Don't you see any difference between a German who refuses to work for the Reich and a Pole who refuses to work for Germany, the country who had overrun his native land and had destroyed it? Do you see any difference between these two?

DEFENDANT SOMMER: Your Honor, unfortunately I am not a lawyer, and therefore, I cannot judge this matter from the point of view of international law.

Q. I don't want it to be according to international law. I just want it according to human common sense.

A. My opinion is, your Honor, that the population of an occupied country can be used for that sort of work.

Q. I see. You understand then that if Germany overruns a country it can force the people of that country to make munitions of war to be used against their own people?

A. I have heard here, your Honor, that prisoners of war were not to be used for the manufacture of ammunition. However, at that time I thought that the population of a country could be used for work.

Q. You mean to make bullets to be shot at their own people—let's put it so you can't misunderstand it—you think it was all right for the civilian population of Poland or any other country to be forced to make guns to shoot against their own people? That seems all right to you, does it?

A. Well, your Honor, at the time we were not at war with Poland any more. Poland had been conquered.

Q. Had you concluded a peace with Poland?

A. No. As far as I know, the Polish Government had escaped from the country and no government existed any more in Poland with whom we could make a peace.

Q. Poland had an army, not much of an army, but it had an army in the field at that time, did it not?

A. I don't know anything about that.

Q. Well, this is an interesting comment you make. It was your idea that after the—was it 21 days of the Polish campaign—about 21 days it took to overrun Poland, didn't it?

A. Yes, your Honor.

Q. It is your opinion that at the end of those 21 days Germany owned Poland; is that right?

A. No, your Honor.

Q. Well, it's your opinion that Germany owned the Poles? That's what you just told me.

A. No.

Q. Well, what do you call it when you say that they could be forced to make war munitions to be used against their allies, if not against themselves? Don't you call that owning the Poles?

A. No, your Honor. I believe, your Honor, that it can be demanded that these people should work. The question then remains where they should work and what kind of work they should do.

Q. They must work for nothing?

A. No. The Poles in Germany who came to Germany as voluntary workers always received their pay.

Q. We're talking about the people that you say can be compelled to work. You say you have a right to compel the people of Poland to work for Germany, not the people who came voluntarily?

A. Up to now I understood your question in a general sense, your Honor. The Poles who were turned over to the concentration camps actually did not receive anything for their work for a certain period of time. However, I have already said that this condition changed after a while and that even these Poles were to receive a certain amount of money. Of course, this was not in any relation to the amount of work which they performed, but—

Q. Wait a minute. You are getting away from the point. You believe that Germany had a right to compel the conquered Poles to work; to compel them, I say?

A. I think yes, your Honor.

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EXTRACTS FROM TESTIMONY OF DEFENSE WITNESS
HELMUT BICKEL *

DIRECT EXAMINATION

DR. FROESCHMANN (counsel for defendant Mummenthey): Witness, would you please state your full name, the place and date of birth, and your present address?

WITNESS BICKEL: My name is Helmut Bickel, born on 20 April 1906 in Munich. I am living in Hamburg-Bergedorf, Rathenaustrasse.

Q. What is your profession?

JUDGE PHILLIPS: I didn't get his name. What did you say his name was?

WITNESS BICKEL: Helmut Bickel.

DR. FROESCHMANN: Witness, you were an inmate in various concentration camps for a long time, weren't you? Would you please describe to the Tribunal very briefly what concentration camps you were in, within what periods of time, and what kind of work you did while you were in those camps?

A. Between 1935 and 1945 I was in various concentration camps and institutions. From 1939 to 1940 I was in the concentration camp Sachsenhausen, and from 1940 to 1945 I was in the concentration camp Neuengamme, near Hamburg. During the time when I was in the concentration camp as an inmate I worked on all sorts of jobs which inmates had to do.

Between 1939 and 1940, while I was in the concentration camp Sachsenhausen, I was working in the large brick factory there. From 1940 to 1945 I was in the concentration camp of Neuengamme, as stated before, and I worked there in the enterprises belonging to the DEST; that is in the Klinker Works. These Klinker Works were established as a plant in 1940. On 15 August 1940 the foundation stone was laid for the Klinker Works, and from that date on I was in the construction management as an inmate. The construction itself had been concluded in 1942. Then I worked in the works office as an inmate in the newly established building. From the first day on—from 1940 on—I had to do the work in connection with commerce. All office work, with very few exceptions, was done and carried out by the inmates.

Q. Did you, on the basis of that activity, see or gain any insight in the business matters that were going on in that factory, and did you also see anything about the general condition of the inmates being employed there?

A. Ever since the beginning I was in a position to see the

* Complete testimony is recorded in mimeographed transcript, 31 July, 4 August 1947, pp. 5381-5512.

internal things that led to the establishment of the factory, and I was also in a position to see the internal conditions which resulted after the establishment of the factory. This increased when I was called upon to do more important work of an internal nature. By this I could, for instance, gain an insight into the structure of the DEST, of the SS WVHA, and I was also in a position to observe the individual personalities as far as they were in connection with the plant at Neuengamme—

JUDGE MUSMANN: Dr. Froeschmann, will you tell us how he got into a concentration camp?

WITNESS BICKEL: In 1935 I was arrested due to my activity as the director of a newspaper firm. I had some difficulties with the Gestapo which particularly charged me with favoring Jews, and the main reason why I was committed to a concentration camp was that I had been the cause that the anti-Semite Streicher,* who was Germany's leading anti-Semitic, received a 2-month sentence in jail.

DR. FROESCHMANN: Witness, you were just speaking about the personalities which you met in the course of all those years, and particularly in Neuengamme later on. The Tribunal and myself are, in the first place, interested in the personality of the defendant Mummenthey. I would appreciate it if you would tell us your impressions and experiences which you gained through your own activity of the behavior of the defendant Mummenthey with reference to the inmate problem, generally speaking.

WITNESS BICKEL: This chapter concerning Mummenthey's personality has to be explained in detail. I don't know if you are interested in knowing how far we inmates could recognize the career of this man. The first contact I had had with him was when an order came from Berlin which dealt with a quarrel between the commander, Glockmann at the time and the commander of the concentration camp of Neuengamme who in the meantime has been hanged and whose name was Weiss, which had arisen and was to be settled.

This order came to my knowledge at a time when I didn't know too much about the individual happenings and I was surprised when I first found out about it. I intuitively felt that what we believed about those masters of the SS was not really true. We were of the opinion that the SS was a very strong power, a power which was closed in itself and well-balanced.

In reality, however, the SS was nothing but a small group of powers and every one of those small powers thought it was the nucleus of the power itself. You could actually say that they were

* Defendant before International Military Tribunal. See Trial of the Major War Criminals, vols. I-XLII, Nuremberg, 1947.

all competing against each other and fighting each other every way they could.

There was a man here who called himself a star—and his name was Himmler. He had a lot of small stars which had no light themselves and which circled around that main star—Himmler. They were all endeavoring to find their own light and to be bright stars themselves. That, actually, was the secret and the problem in the SS: There was no SS state. It was nothing but a small group of sovereigns which were competing against themselves, and in this competition we inmates were in the middle. It was out of this competition that these mass murders developed.

In order to speak about Mummenthey, now let me say that he was also a star, a small star. He was trying to succeed while running along his line within his small power. He was trying to successfully build bricks in order to, at the end of the year, be able to stand before the larger star—which was Pohl—and say:

“High Star—I mean Obergruppenfuehrer—this year I have been able to create so many thousands of millions of bricks. That is my war effort.”

All the reports of the individual small stars concentrated in this bright, big star—Pohl—and then Pohl appeared before the sun—the sun being Himmler—and he said to him, “Reich Leader, our success * * * so many millions of bricks, so many millions of cubic meters of granite.”

But one had to keep a few secrets. One had to keep a few secrets because they didn't know up there that on the other side of this balance there were hundreds of thousands of comrades who had died. Don't forget that these hundreds of thousands of comrades, all those dead people, had been killed by other stars, by other small stars. They had been killed by the concentration camp commanders. It was a parallel line running between one side, the administrations of the concentration camps, and the other side, the factories, the plants.

The concentration camp administration had power over the inmates. They had to deliver the inmates to the plants in the morning and pick them up again in the evening. The commandants did not permit any influencing of the way the lives of the inmates was being led. They were competing, actually, with the works managers, and they jealously watched over their competencies trying to safeguard them.

First, when the plants were established the situation was such: The task was to have those inmates who had been arrested in a real manner do some work. It was a small number relatively speaking. On the other hand, there was a lack of construction material. In order to be able to satisfy the construction pro-

grams as set by the mad man in Berlin it was therefore natural that these inmates were used for the manufacture of construction material. Now, at the beginning of all this there was a sound proportion. The number of inmates could match with the amount necessary for the production of the construction material in small enterprises. However, these gentlemen endeavored to produce more and more. But, and this is the point, due to the bad conditions the number of the inmates which had really been arrested due to reasons which prevailed became smaller and smaller, and therefore you had a vacuum which had to be filled somehow, a vacuum between the figure of the inmates which existed and the number of the inmates necessary in order to increase the output.

The managements of the enterprises, of course, informed the people that the construction projects would necessitate so and so many more workers. Of course they did want to have mechanized enterprises and also partly employ civilians. On the other hand, again, lots of inmates were dying without their being able to do anything against it, so that the vacuum actually became bigger and bigger. The result was that in the years before the war inmates were no longer arrested on real reasons but were arrested on fake reasons in order to fill that vacuum. The result was actions, so-called actions. A large number of inmates had not been arrested due to crimes, to individual crimes which they had committed—I am now speaking about the time prior to the beginning of the war—but rather they had been arrested as a result of those actions. They had been seized, which is the term which was used by the Reich Security Main Office, and speaking from a human point of view they had been rounded up. I can recall one action, for instance, which took place in 1938. It was called the action of the anti-social elements. All the people who had been branded anti-social by certain circles had been rounded up in Germany and placed in concentration camps as persons who were able to work. And then you had later on actions against heavy criminals, etc., etc. All this had to be done in order to fill the vacuum, which vacuum only resulted from the competition between the individual groups and individuals.

These individuals who were holding the power did not have any influence on each other. The term "SS" distinguished itself by being the contrary of a homogeneous entirety. Namely, it was not something that was closely connected. It was only thus that you had the camp commander on one side who had inmates maltreated if not killed—and they were not directly killed, they died as a result of the mistreatment—and then, on the other hand, the powerful men of the enterprises had not enough workers. However, the thing resulted also in the interest of the person

holding the power beyond the economic sector, namely, to preserve the inmate labor and to be able to use both their life and their power for themselves as laborers. And that is the explanation for the fact that Mummmenthey cannot be put among those who are responsible for the murders in the concentration camps. In the first place, it might have been nothing but a business interest. In any case, the interest had to arise from his small circle of power to keep the inmates alive and in a position to do some work so that he at least would be able to receive some bricks, or in other factories he would be able to have some granite.

Q. Now, Witness, you had the opportunity to speak to the defendant Mummmenthey repeatedly and therefore you must have gained some sort of an insight into his entire idea. You also spoke about the inmate problem with him, didn't you, personally? Even if you didn't exhaust the subject, maybe you spoke to him once in a while. I think it important to actually find out what impression you gained on the basis of these discussions of Mummmenthey and his actions.

A. Mummmenthey was absolutely friendly towards the inmates. This friendliness towards the inmates might be based on a business interest to begin with, but I do remember conversations which Mummmenthey condescended to have with me on various things—after all, he was a Higher SS Leader and I was nothing but a small little inmate. From these conversations I did gain the impression that this man was a white crow. And as a white crow can be found among the black ones very seldom, Mummmenthey was one of those white crows within the SS, which consisted of black crows mostly.

It is even possible that he had some sociologic interests too sometime. In a conversation which he had with me during the works managers' conference which took place in 1942 at Neuen-gamme, he spoke of food and the allocation of billets, etc., of an inmate as an individual. Whereupon I told him that the most important thing for us in order to carry out a certain amount of work was to give us exactly what the lowest criminal needed, the pickpockets or the burglars, that is, we wanted to know when our captivity would be over, and secondly we wanted to be able to know that we would live. Whereupon there was a helpless gesture which was such that I could understand that he was sorry that he had no influence whatsoever in that field. I made a few more suggestions thereupon concerning some other matter and Mummmenthey told me, "Yes, we will take care of that." The explanation was so lax that I thought, well now, you have been told off, and I was really surprised that two weeks later I understood from a letter which had been sent to the works management

that Mummmenthey had actually followed my suggestion. The reason was that he was a very exacting man, that he worked quite a lot and did not leave anything undealt with, and that he tried very hard to do things, but apparently he didn't have too much authority in order to be able to do more and induce a fundamental change in Gluecks' group. That group was the one that was actually in charge of our lives, namely, Gluecks' group, and that was the group of those concentration camp commanders who were in charge of us and who would not listen to a plant manager, not even to an Amtschef.

The commander of Neuengamme looked upon the plant manager as a subordinate of his who was not worth a thing, and he also regarded the Amtschef, Mummmenthey, as an officer and comrade, who was an officer and who wasn't worth too much.

At the same time, in order to illuminate the whole thing for Mummmenthey, I must say that even the Main Office chief was shown Spanish castles by the commanders, Spanish castles which had been built in such a manner that we inmates naturally could only look upon them and be surprised at the boldness with which a small commander was gyping the others by telling them a bunch of lies.

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DR. FROESCHMANN; * * * Are you in a position to tell the Tribunal what the whole idea was of these special privileges to the inmates, and particularly to tell if and how far the defendant Mummmenthey participated in this talk of the extent of privileges, and also of the individual powers which were struggling against each other in this connection?

WITNESS BICKEL: The privileges were nothing but a symptom for the relationship between concentration camp administration and the works management. From the very first day, when inmates were used for so-called productive work there was always the endeavor in those circles which were gaining their power and wanted to have more privileges and profit out of the inmate labor to first of all keep the inmates willing to work; and, secondly, in a somewhat good position to be able to work, strong enough to work.

On the other hand, in the concentration camps you had the endeavor with the administrations to do something useful on their own; they considered themselves very efficient if they exterminated the inmates by first torturing them.

It is from those two lines that you had the divergencies. These divergencies at the time of Heydrich who was the greatest murderer in history were on the side of the concentration administration. That was up to 1942. When, in 1942, Heydrich had been

killed and Kaltenbrunner * took his place, this line became less strong. It was no longer as strong as it was, not because Kaltenbrunner was more humane than Heydrich, but rather because he didn't have that Nordic lust to murder that Heydrich did. Then we reached the moment, when those circles which were interested in increasing the capacity or the power of the inmates, that they got a sort of boost in their own endeavor to reach more authority and more power. Exactly one day after the elimination of Heydrich a better situation resulted for us inmates.

There were privileges of all kinds. All these privileges had been suggested and initiated by the plant management. The DEST administration for these purposes had had several works managers conferences. In 1942, for instance, among other conferences there was a conference in Neuengamme of all works managers of the DEST. It was for this purpose that I had the big inmate office evacuated and had an office prepared for a conference, and I had a partition made of wood, where two inmates and myself wanted to control the conference. We wanted to see ourselves by this what the gentlemen's attitude and opinions were. Partly by stenographic notes we had gained knowledge of the conversation of the conference, and the result of this particular conference. Some of the works managers were skeptical in reference to the success of the intended privileges which should be granted the inmates. I shall have to stress here that those were simply suggestions or proposals which the works managers were to work out under the leadership of Mummenthey. According to the complicated structure of the SS administration, it was not possible for them to make the decision themselves. Some of the works managers, for instance, said that with the means at their disposal they could not possibly increase the output on the part of the inmates, and Mummenthey was intense in being against those ideas as pronounced by some of the works managers. His tendency was absolutely clear, and to get whatever privileges could be obtained for the inmates. I would like to interpolate what I had stressed yesterday, that his point of view was that of a business manager of the entire enterprise, that he did that out of a commercial interest. However, he did have an opportunity to make a few sociological remarks to support the question of privileges which showed that these remarks which he made in connection with commerce were actually the results of his own character. After a while the various privileges came through one after the other by the orders of the Main Office Chief Pohl.

* Ernst Kaltenbrunner, head of the Reich Security Main Office (RSHA) and chief of the Security Police and Security Service (SD) was a defendant before the International Military Tribunal. See *Trial of the Major War Criminals, op. cit. supra*, vols. I-XLII.

The concentration camps received those orders rather reluctantly. So far as things were concerned which could exclusively be dealt with by the plant managements, of course, everything was carried out then. But if something was to be done where the assistance of the concentration camp administration would become necessary, then there were difficulties. So far as those privileges were privileges, which came, or were to come exclusively from the concentration camp administration, then there was sabotage done. I remember some orders. For instance, towards the end of 1942, there was an order from Pohl that the inmates who were important as employees for the factory, namely, the work of whom was of special interest for the management or for the plant, like special stokers, special technicians, particularly skilled laborers, or handcraft, these inmates should be taken out of the concentration camp. They were to be taken out of the concentration camp, they were to work outside the camp, they were to be billeted out of the camp in a more human billet. They were to receive SS food, and, what is of interest, they were to receive hygienic care by the SS. By that it was admitted, of course, that the hygiene of the camp was not sufficient, otherwise, this could not be regarded as a special privilege. Apart from that those inmates were to receive something close to a salary up to two marks a day. I believe that only 50 pfennigs out of their two marks were to be deducted for food. Therefore, generally speaking, a condition for inmates [Haftlingsart] was planned which was to work more or less under normal working conditions of a normal human being, and it would, of course, offer the opportunity that these inmates would be left alive. It was a so-called "could" order. Gluecks had given this "could" order, but it was not a "must" order. Take for example the Neuengamme concentration camp. Though the plant management in Neuengamme had very frequently taken the matter up with the commander Pauly of Neuengamme, not one single inmate had received any privileges in this way. Why? Because there was a possibility now to sabotage a "could" order. Had it been a "must" order they would have had to do it. * * *

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Now coming back to the privileges, there were all kinds of privileges. For instance, additional bread, the additional heavy workers allowance. The plant managements had been fighting for it for a long time. Finally, in 1942, the inmates received this allowance. There was also the so-called danger allowance. In our plant in Neuengamme, in the brick factory men were working on the ovens. They came constantly in contact with carbon dioxide gas, and their lives were being threatened all the time. In that instance

there was always a struggle to receive milk for these men. Berlin arranged that these men received a certain amount of milk daily. But they removed the cream off the milk, and then gave them just the skim milk instead of giving them the full content of milk which they needed, after having received and signed for proper milk.

Then, of course, there were other privileges which were being fought for, namely: The elimination of one or two of the roll calls. There were three roll calls, one in the evening, one in the morning, and one at noon; two were to be eliminated. So far, these privileges were supported by normal working conditions, they were carried out by the concentration camp commander. Before the inmates had left for work they had already stood in line for one or two hours for a roll call in the morning. The inmates were not machines. All these hardships which they suffered standing for roll call resulted in less work, and the same applied to the noon roll call. An additional privilege was then the installation of canteens for the inmates. These inmate canteens, of course, did not have any large supply, or important things for sale. It was more of a joke what one could buy there, and a normal thinking human being would not possibly believe if one would tell him, that for instance, for twenty marks we could buy a large amount of red beets and just as much sauerkohl, a few pieces of sand-soap as soap, and as an added "attraction", we would receive a few cigarettes. But they did not have anything themselves which they could offer. Then we had further privileges, which were the following, namely: The working conditions themselves, then in the billeting at the camp, and in certain other things, which are not made so important.

The most important thing is that toward the end of 1942 a bonus system was introduced. Up to that time we could only receive money from home. From that moment on the money was no longer paid out. The inmates were limited to bonuses. That means they received 50 pfennigs up to 4 marks per week in bonuses, this was camp money, depending on how much work they did. The highest amount of four marks was prescribed. You could buy things in the canteen for those bonuses and those bonuses could also serve to order newspapers and to use the camp brothel. Those bonuses were developed quite well by office W I. As I stated before, four marks was the total amount that could be received and the bonuses had to be paid by the works managements. The camp had nothing to do with it. There was a further regulation, I believe, that 10 percent of the amount which the works management or private firms had to pay to the SS treasury, to be transferred for work done by the inmates, at the most

could be used for bonuses. From Neuengamme with the help of the works management and the inmates we helped boost up those bonuses, with special bonuses, so the inmates were receiving from 11½ marks up to 12 marks. Then they received special bonuses in the shape of goods and individual articles, for instance, clothing, etc., as far as could possibly be provided in the camp secretly, because the resistance of the camp commandant was to be evaded. I can give you the figure from the balance of 1944. In 1944 the Clinker Works in Neuengamme had paid for inmate labor assignment to the Reich a total of approximately 300,000 marks.

It could have been a few thousand marks over that. Then we paid for special bonuses and special achievements, etc. to my comrades and myself 100,000 marks which was roughly 33 percent as compared to the 10 percent which was permitted. Mummenthey, in order to come back to your client, Mr. Defense Counsel, absolutely agreed with that tendency although it was not quite in compliance with the main order that had been made. Mummenthey permitted expenditures, I mention in this connection that all expenditures had to be approved by Berlin. * * *

There were also additional privileges on other fields, I don't think necessary to mention them here. The most important thing in all those privileges was that there was the tendency to improve conditions under which the inmates were working in the Klinker Works. But, the most important thing, as I said before, they couldn't take care of. They could not provide them with sufficient food and sufficient supplies nor could they possibly guarantee their lives because in this field the SS concentration camp administration which was administered by the SS RSHA decided alone. Thus they had to follow the tendency which was coming after Heydrich's death. They had to treat inmates a little bit better and they would have to stop this torture and killing. But the concentration camp administration still wanted to succeed by exterminating the inmates.

* * * * *

DR. FROESCHMANN: Witness, if I understood your testimony correctly, you wished to say, and in order not to put the answer in your mouth, I am asking you the following: Who was responsible for all those bad regulations under which the inmates had to suffer and which cost the lives of several of them?

WITNESS BICKEL: I can only answer that question of yours with reference to Neuengamme with 100 percent certainty. The answer is: The management and the people responsible in the works are not responsible for any of the deaths.

Q. Witness, do you know whether Mummenthey endeavored to

help inmates to get out of the concentration camp and by that I mean inmates who were working well, and to put them back on a civilian status? Do you know anything about it?

A. It is actually the case that inmates who were working in individual enterprises of the DEST, upon Mummmenthey's suggestion through Pohl and to Gluecks, have been released by the RSHA. The first case which I heard myself was—and according to what I hear now it wasn't the only case—the following: Namely the case of the inmate Ludwig Fischer. He was an architect in my office of the Clinker Works in Neuengamme. In 1941 he was released upon Mummmenthey's suggestion and was employed as an architect, as a civilian employee, in Prambachkirchen near Mauthausen. * * *

Mummmenthey furthermore got other inmates out of other camps, I myself was the second case. Since 1944, my release, and at the same time my employment as a civilian employee was worked on. It took one year from the moment of the application. The resistance offered by Berlin was rather strong. This shows that the power of the SS WVHA within the framework of the entire SS structure was not very strong. If the power would really have been as strong as they actually thought it was, then all it would have needed would have been a letter; in order to get out an inmate; namely as in my case, for instance, a book-keeper and the other case, of Fischer who was an architect. They thought they had the power but they didn't have it.

Perhaps, it was of importance for Mummmenthey to be able to seek power himself and to imagine that he was strong, both for himself and for his subordinates, saying that he actually succeeded in doing something by releasing a few inmates from the concentration camp. For us inmates, there was nothing else, no better aim or better luck than to be released from a concentration camp.

On 5 February 1945—that is a few days before the liberation by the Allies—my release had been granted me. I had already been dressed in the morning and I had to wait until 6 o'clock in the evening whereupon the commander said "Bickel is not going to be released. I am not going to release him." He was stronger. Although the order had come from Berlin to have me released, although my papers were ready, although I was ready, dressed up and everything—I had received my wedding ring again, had received my clothes again and had signed for them—the commander at 6 o'clock in the evening said, "Go back to the camp. Change into your clothes again. You are an inmate."

The commander had found out that Mummmenthey had done that and he wanted to prove he was the stronger. He was nothing

but a beast. That is the reason why I again became an inmate. It was depressing. I got again into my inmate's garb, went back. Kahn called Mummenthey up—the same evening, I believe. As I learned from Kahn, Mummenthey went again to see Pohl.

* * * * *

DR. FROESCHMANN: Witness, I am now coming to the end of your examination and I must say that you have been very objective in your statements although one could have suspected other feelings to be harbored by you. In the course of the trial two concepts have been of importance and they have repeatedly awakened the interest of the Tribunal. They are surrounded by a certain veil of secrecy. One is the concept of the crematorium and the chamber harboring the corpses in the concentration camp about which the prosecution had alleged that very wide circles, and in part my client Mummenthey, must have known something about them. The other concept is the concept of the punitive company and a number of witnesses have mentioned that from their own point of view. I believe that in the interest of an objective explanation it is necessary for you to describe these two concepts to us in detail, in particular to what extent Mummenthey had knowledge of these things, and to what extent he was able to have knowledge about them, and if he did have knowledge what he did about these things. Please tell us something about it.

WITNESS BICKEL: Whenever a concentration camp was established then the most important institutions were not the kitchen or the hospital or the accommodations for the inmates, but the most important things were: (1) the chamber where the corpses could be stored; (2) the place where the corpses could be cremated; and (3) the punitive detachment.

This is a parallel to what was done in the colonies of Germany before the First World War. When I was a boy I once read the history of the colonization of Cameroun. The German colonial agencies first of all established police stations and prisons, and that is exactly what was done in the concentration camps. The punitive detachments were institutions of the camp. The camp commander used them in order to exercise his punitive authority over the inmates. The camp commander in most cases was a very uneducated and primitive human being. Other people wouldn't have acted like that. He decided about the life and death of thousands of inmates. He had the punitive authority from 1940 or 1939 on. He had the following possibilities: he was able to order the flogging of inmates, a fact which is well known. The inmate would be put on a bench and SS people would flog him with heavy whips. The second possibility of punishment was hanging. I myself got acquainted with this method on several occasions. From

1940 on, the hands were tied on the back of the inmate with chains and in this way, the inmate being above the ground, was left hanging so that his body would be suspended in the air. Of course the joints would be dislocated in the arms, and the inmate would be incapable of performing any work for quite some time. I want to add here that this method of punishment was abolished at the end of 1942 upon the recommendation of the plant managers and the economic sector.

The next medium of punishment was the punitive company. All violations for which some sort of punishment was imposed on inmates were always of a very slight and minor nature. For example, I was flogged on one occasion with 25 lashes of the whip because somebody found me loitering around when I should have been working. After all, I only had a purely commercial activity. On one occasion I stood at the roll call square and the man in charge of the detachment saw me and he wrote out a report about it. Several days later I had to report to the punitive board, and here I received the punishment for my violation. I was not allowed to make any statement there at all. The report read that I had stood around when I should have been working. I had loitered, and the commander told me in the SS terminology, "Well, you pig, you are too lazy to work, and now we are going to beat you up." He did not consider the fact that I had a very important job and I fulfilled my work efficiently in the plant. I couldn't tell that to the commander and he wasn't interested at all in that. A few days later I was actually flogged, and then the whole case was settled.

PRESIDING JUDGE TOMS: Who administered the flogging?

WITNESS BICKEL: The SS block leaders. They were noncommissioned officers, and each of them was in charge of one block. A block is a barrack where the inmates were accommodated. All the inmates could be assigned to the punitive detachment for very minor violations, for example, because they had smoked when they should have been working, or some other minor violation. However, there were also transfers to the punitive detachments as the result of the inmate records. When, in the year 1940, the concentration camp Neuengamme was established, the commander created a punitive detachment which was divided into three parts. It was called Roller I, Roller II, and Roller III. The name of this punitive detachment originated from its work. The inmates were harnessed before heavy rollers, and then they had to pull these rollers back and forth across a square of the newly established camp, and the new camp road which was being constructed. In this way they were to make the soil more solid on the square and on the road. When they were doing this work,

SS men of the concentration camp would drive them on to work with whips. The inmates who worked on Roller I were the Jews who were situated within the camp. This particular camp commander was especially hostile toward the Jews, and whenever he had not succeeded in killing the Jews he would put the remainder into that punitive detachment. In Roller II all the inmates were put who had to wear a red point on their uniform because on an earlier occasion they had tried to escape. In Roller III only inmates were located who had been guilty of some small disciplinary violations. When the work of hardening the soil of the road and the square had been completed the commander had to find a new work for the punitive detachment.

He ordered them to dig a very big cellar, and here water constantly accumulated because the Elbe River was situated nearby, and there was a lot of water in the soil. At that time I was also in the punitive company for several days, and I saw that the inmates had to get into the water which went up to their chests, and they had to put the water into buckets and empty the pit. This work was not important at all. There was no use to it. That is how the inmates were kept busy with chicanery, and the purpose of all this was to torture the inmates in the punitive company and to kill them as a result of this torture.

The death rate was correspondingly high. The SS noncommissioned officers, mostly there were two or three of them who were in charge of this punitive detachment and who were exclusively and directly subordinated to the concentration camp commander, were always by selection extremely brutal. Most of them were very young fellows, and since they were unable to prove that they were heroes at the front, they consequently tried to become heroes by torturing the defenseless inmates. They also competed with each other in discovering new methods of torture and killing the inmates in the punitive detachments. Let me give you an example.

When I was in this punitive detachment there was also a Catholic priest there of a high standing. He was only in the concentration camp because he had preached against Hitler from his pulpit. That is why he was sent to the concentration camp, and at the same time he was assigned to the punitive detachment. This inmate was about to die and he was lying in a coma next to our place of work. One of these block leaders had discovered an especially funny method of torture. He would urinate into the mouth of the man who was just about to die and then he would complete his joke by saying, "Well, my priest, now you have received the last salvation." Yes, the SS could be funny on occasions, but only according to their nature.

This punitive detachment, after the death of Heydrich, was entrusted with work after 1942 which had some sort of sense at least. The commander was afraid that he would be reproached if it was ever noticed that he only used the inmates in the punitive detachment in order to torture them. Of course, now he was looking for the heaviest work for them.

* * * * *

CROSS-EXAMINATION

* * * * *

MR. MCHANEY: Were there any prisoners of war employed in the Clinker Works at Neuengamme?

WITNESS BICKEL: Prisoners of war arrived in August 1941. They were used for work which had to be carried out in the scope of the Clinker Works. They were used in order to construct a clay pit. However, they were not assigned to the detachment working at the Klinger plant. And here we were only dealing with a project which employed Soviet prisoners of war.

About the labor assignment of the Soviet prisoners of war a decision was to be reached later on. However, a clear decision was not reached because the quarantine period started, and of the 1,200 prisoners of war who had come to the camp, only approximately 200 were left. The remainder again was returned to prisoner of war camps, early in 1942. The prisoners of war were kept separately from us in the camp, and they were subjected to special treatment ordered by the RSHA and the SD. They were treated so brutally that even the inmates—although we did not have very much, and although we could not be too comradely as a result of our bad condition—would share the little food we had with the Russian prisoners of war.

I assume that the Tribunal will doubt the truth of my words. It is incomprehensible that a civilized nation will treat prisoners of war like that, but the food consisted of raw unpeeled potatoes and unpeeled beets. They were boiled together. There would be 95 percent water and five percent beets.

That is what the Russians received for lunch. In the morning each of them received approximately half a cup of coffee and one little piece of bread through which you "could see the light." That was their food.

Their accommodations were actually nil. They were kept in a wooden barracks, and one even refused to give them a little straw or hay which would be given an animal. They had no straw or any wood shavings from which they could fashion a bed * * *. They had nothing whatsoever.

* * * * *

MR. MCHANEY: * * * There were two roll calls a day. How long did the roll calls normally last?

WITNESS BICKEL: The morning roll call was carried out rather quickly, generally. In spite of that it would last between a half hour and three-quarters of an hour. The evening roll call depended on the temperament of the concentration camp guards. There were evening roll calls which, in the best cases, lasted for half an hour. I have seen one evening roll call last for 36 hours—36 hours, that is one and a half days.

Q. And the inmates had to stand outside in the open during these roll calls, did they not?

A. The inmates would have to stand in the open in the concentration camp at the square where the roll calls were held.

At the Clinker Works the roll call would be carried out in a room.

Q. What do you mean that at the Clinker Works the roll call would be carried out in a room? I understood they had a roll call in the morning, before they went to work, and a roll call in the evening when they came back from work. Now you mentioned a third roll call. What was that?

A. Besides these two roll calls in the camp, we also had three roll calls daily within the plant. These three roll calls in the plant were carried out for the purpose of showing the man in charge of the detail from the concentration camp so he could be convinced three times a day that the number of inmates was still present in the camp, and that no inmate had escaped. These roll calls at the plant took place as soon as a detail arrived at the plant in the morning; then at noon, before the noon meal was issued; and then in the evening before the detail returned from the plant to the camp. Altogether, we would have five roll calls a day.

Q. Witness, isn't it true that each work detail had to check back in the camp in the evening with the same number of inmates that composed the detail that went out in the morning?

A. Yes. That is correct.

Q. And isn't it true that if certain of the inmates of a particular detail died or were killed during the course of the day on the job, then the remainder of the detail had to carry their dead inmates in to the roll call place in the camp so that the dead could be counted in too?

A. That is correct. For the guards of the concentration camp there was no difference between live inmates and dead inmates. It made no difference to them as long as the correct figures were

given; whether these people were dead or alive did not make any difference at all.

* * * * *

TRANSLATION OF DOCUMENT POOK 11
POOK DEFENSE EXHIBIT 2

EXTRACTS FROM "THE GOLD OF THE DEAD" BY DR. WERKENTHIN
(DENTAL MAGAZINE, 1925)

Copy 1

Zahnaerztliche Rundschau [Dental Magazine]

Vol. [year] 1925 Nr. 39, pp. 605/606

Nr. 43, pp. 671 ff.

The Gold of the Dead by Dr. Albert Werkenthin (Berlin)

Motto: "All that lies quietly buried beneath the earth," Faust II, 1

* * * * *

The following question is obvious: What happens to the gold and platinum in the teeth which is either in them or fastened on them; the gold and platinum of fillings, crown and bridgework, if the person dies before he has lost all of his teeth? All kinds of possibilities are to be considered:

1. The precious metal is heedlessly buried with him. Then it remains underground for 30, 60 or more years. When new burial plots are to be created and the bodies are for that reason exhumed, this precious metal is "found". Then it neither benefits the heirs nor the general public, but the church or cemetery administration takes it over provided the workers don't pocket it as loot. There is also a possibility that it remains unnoticed underground and thus is completely lost to the national wealth.

2. It is not beyond the realm of possibility that while the body is still above ground the precious metal is secretly removed by unauthorized hands. The same could happen after cremation of the body is completed, when the ashes are being collected.

3. It would be feasible sometimes in agreement with the heirs and for their benefit to have the gold removed from the oral cavity by a dental expert before the body is buried or cremated.

Finally it would be conceivable for the state authorities to arrange legally in a very systematic, regulated way for the examination and manipulation applicable to every case. The state would then claim the metal for itself and pay the heirs only the corresponding value of the gold at the same time giving them to understand that they are to donate this amount, which is never very great in the individual case, for the benefit of the community.

1925/11

I know of no case which would correspond to the third possibility. The excitement of the day of death, the reverence, the multitude of people, of opinions and interests who usually all have a say in decisions and finally the circumstance that a deep inner shame arises as soon as the least demand on such a so-called personal last possession is made. If one may say so, all these circumstances act together so that such aims as are suggested here do not even enter into the sphere of possibility. In this way only number one and two remain, one does not give it a thought or one rejects any thought which might arise.

* * * * *

In a few years there will be 10,000 dentists and at least 20,000 dental technicians in Germany.

If we assume that the following were the average yearly amount in each individual case: 240 cast or hammered gold fillings each 0.5 grams = 120 grams; 100 caps and crowns, each 3 grams = 300 grams; 36 pieces of bridgework each 12 grams = 432 grams; the total would be about 852 grams, and only 1/20 of this would remain in the mouth at death. In other words 42 grams this would mean 30,000 persons handling gold worth 3.8 million marks.

With the required platinum it would come to from four million gold marks a year.

This is a sum which even if it does not come that high should make us think. Countries which have an over abundance of gold such as North America, which moreover produces golds, might be in a position to neglect this loss.

Just as the bankrupt Imperial Majesty in the first act of the second part of Goethe's Faust listens closely when Mephistopheles points out the treasures hidden beneath the earth and promises to lift them so our poor country should earnestly endeavor to check any waste * * *.

A petition which the author directed to the Prussian Ministry of Finance was turned over to the Ministry of the Interior, where it was absolutely rejected.

Perhaps these facts will stimulate a discussion of this question.

* * * * *

The scandalous occurrences at the municipal crematory in Dresden have meanwhile become known. "The bestiality of the criminals went so far that they broke the gold fillings (they probably were crown and bridgework for the main part) from the teeth of the dead in order to turn them into gold."

* * * * *

We are speaking here of parts of the national wealth, over which we ourselves, in consequence of our treaty obligations will

not have the full and independent right of disposal for decades hence. Just think if it were possible to restore these neglected four or five millions to the stream of active economy for 30 consecutive years, it would be 150 millions in gold, which would then be of use again to suffering human beings. We need and could use even a great deal more gold for the thorough repair of human part-dentures than even this amount would cover, each look into the mouths of our patients tell us, especially of those who are "not so well off", who still have to be satisfied with the wretched makeshifts of rubber, silicate, and amalgam in huge numbers. "The American worker has more gold in his mouth, than the European has in the savings bank," the American Secretary of Labor recently said not without cynicism, but we must surely admit that the gold in the American workers mouth is not there for adornment or luxury, but because it really is the best, the only material worthy of being put into the mouth of a human being (apart, possibly, from porcelain and platinum).

* * * * *

What scares people is that the gold of the crowns and bridges would have to be removed from the dead person's mouth by the intervention of an expert, for which "congenial" activity, as the doctor and dentist, my colleague Buff thinks not many colleagues would probably be found willing.

That is the salient point: The apparent violence of the removal, which it seems impossible to reconcile with decency and because it is done for purely material reasons—if one believes he must put such a low estimate on the bringing back into the purposeful circulation of the living of this most precious substance which is only present in limited quantity on the earth.

Next, I would like to ask, referring to Buff's objection mentioned in the last sentence but one: What does a post mortem, a dissection look like? How does it come about that doctors not only undertake this "uncongenial" task, but that doctors even search in the most loathsome corpses of drowned people; that analytical chemists extract poisons out of parts of corpses and regard this conscientiously as an activity which falls to their lot, which is not confined to healing or to attempts to heal the living? Every doctor is an inspector of corpses and dares not refuse to ascertain the cause of death, because this activity might be "uncongenial" to him.

Then I refer to a declaration of my colleague C. Pfaff (Dresden) which has reached me and which completely shares my arguments and standpoint, "In any case, the simplest way of getting back the gold and platinum would be to cremate all corpses." For then it could be redeemed from the ashes without outraging decency.

Three hours after the body of a distant relation had been cremated there would be delivered to him on demand three perfectly preserved gold fillings and 14 porcelain teeth only slightly charred. Certainly no one will doubt my refinement of feeling and my deep emotional life if I say that I too, do not consider this the slightest outrage to decency. The ashes are completely depersonalized residue, "belonging," as *Goethe* says, "to the elements." "So go hence," he continues.

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TRANSLATION OF DOCUMENT SOMMER 44
SOMMER DEFENSE EXHIBIT 41

AFFIDAVIT OF HERMANN PISTER,* COMMANDANT OF CONCENTRATION CAMP BUCHENWALD, CONCERNING "SPECIAL TREATMENT" THERE

AFFIDAVIT

I, Hermann Pister, born 21 February 1885 in Luebeck, at present in Dachau, Germany, have been informed that I make myself liable to punishment by delivering up a false affidavit. I declare on oath, that my statement below is true and has been made in order to be presented as evidence before the Military Tribunal II, at Nuernberg.

Paragraphs 44 and 45 of the affidavit of Wolfgang Sanner, dated 25 April 1947 has been presented to me.

With regard to this I make the following statement: I was commandant of the concentration camp Buchenwald from 1 February 1942 up to the end of the war. During that time the kind of special treatment as described by Sanner in paragraph 44 of the affidavit dated 25 April 1947, did not become known to me, nor did special treatment of that kind, as far as I know, occur at Buchenwald under my predecessor in office.

The only special treatment I know of, is the execution of Russian Commissars and Politruks who had been transferred to the concentration camp Buchenwald from the prison camps by the German Army, as far as I recollect up to the year 1943. These persons were not taken into the concentration camps but were executed immediately after their arrival.

Their execution was ordered exclusively by the Reich Security Main Office, office IV. These orders were signed by SS Gruppenfuehrer and Major General of the Waffen SS Mueller. The persons to be executed were then listed according to name, birthplace, and date of birth. These orders were addressed to the camp com-

* Affiant did not testify concerning this affidavit.

mandant or his deputy in office and as far as I recollect referred to as "Top Secret State Matter."

Amt D II (department D II) of the Economic and Administrative Main Office has never ordered executions to be carried out. Neither did the labor allocation officer have anything to do with this at the concentration camp.

[Signed] PISTER, HERMANN

Dachau, Germany 12 August 1947

TRANSLATION OF DOCUMENT HOHBERG 4
HOHBERG DEFENSE EXHIBIT 13

EXTRACT FROM "YEARBOOK OF ECONOMIC TRUSTEES FOR 1941"
CONCERNING PROFESSIONAL ETHICS OF ECONOMIC EXAMINERS

Extract from The Yearbook of Economic Trustees for 1941,
published by Dr. Otto Moenckmeier

Page 4

B. Professional Regulations.

I. The officially appointed economic examiner.

1. Professional rights.

Page 13

2. Principles of the Profession.

a. General meaning of principles—The peculiarity of the profession of economic examiner, as holder of the public confidence, demands rules for his professional conduct which safeguard this confidence and thus guarantee a high standard of professional conduct. Ethical principles are especially responsible for deciding the professional conduct of the economic examiners. In many respects these principles resemble the principles of other free professions, yet they have their own characteristics in keeping with the special duties of the economic examiner. It is just these professional rules which make the profession of economic examiner a free profession in the actual sense of the term.

Page 14

The "principles of the profession" are given special meaning and intent in view of the fact that the economic examiner is engaged in the economic sphere as a guardian of law and order and thus as a champion of the rights of the community in the economic field * * *.

TRANSLATION OF DOCUMENT HOHBERG 32
HOHBERG DEFENSE EXHIBIT 34

AFFIDAVIT OF HEINZ SAVELSBERG,* CONCERNING HOHBERG'S
VISIT TO I. G. FARBEN PLANT AUSCHWITZ

Copy

Dr. jur. Heinz Savelsberg

Diplom-Kaufmann [certified merchant].

AFFIDAVIT

I, Dr. Heinz Savelsberg, born on 10 November 1904 in Aachen, residing at Koeln [Cologne], Marienburgerstr 8, after having been duly cautioned that I am liable to punishment if I make a false affidavit, herewith state and declare that my affidavit is true, and that it is made to be presented in evidence before the Military Tribunal IV, Palace of Justice, Nuernberg, Germany.

Dr. Hans Hohberg, formerly residing at Berlin W 15, Darmstaedter Strasse 2, now in Zollhaus (Nassau), French Zone, was a college friend of mine. We studied together for the Diploma of Certified Merchant, took and passed the examination on the same day in November 1928 at the University of Cologne.

We kept in touch by visits and correspondence until I began my further studies in England. We then lost contact with each other because both of us moved several times.

In 1939 I returned to Germany for a holiday, after having lived six years in India. Since a return trip was not possible anymore due to the war, I was detailed at the end of 1941 to take over a business position in the plant Auschwitz of the I.G. Farbenindustrie A.G. Dr. Hohberg and I got in touch again, and I informed him that I would be very happy if he would visit me sometime so that we could see each other again after so many years. Subsequently, Dr. Hohberg visited me, and during the course of two evenings we exchanged professional and personal memories.

At one of these talks a certain Dr. May was present, who had some kind of connection with the Equipment Works. In the course of the conversation, mention was made that our works now required window frames and other similar items. As far as I can remember, Dr. May was anxious that the Equipment Works should get the pertinent orders. I remarked that this would hardly be possible since our requirements were too many, but that I would pass on his request inasmuch as I was not competent for the placing of orders. Dr. Hohberg did not in any way do

* Affiant did not testify concerning this affidavit.

or pay anything to further the interests of the Equipment Works, but kept his visit on a completely private level.

It was with satisfaction as I noted that Dr. Hohberg agreed in principle with my condemnation of the way SS men treated prisoners; in this connection, he was especially impressed with a column of female prisoners he saw marching in the neighborhood of Auschwitz.

He confirmed this opinion to me at a subsequent visit I made to his home in Berlin.

[Signed] HEINZ SAVELSBERG

C. Economic Enterprises and Activities of the WVHA

I. INTRODUCTION

The indictment charged that the WVHA "was responsible for the operation and maintenance of various industrial, manufacturing, and service enterprises throughout Germany and the occupied countries" (par. 10) and that these activities involved utilization of plants and other assets acquired in a criminal manner as well as forcing "thousands of concentration camp inmates and other persons into employment" in WVHA enterprises (par. 15) under inhuman conditions. The defense claimed that the economic activities of the WVHA constituted legitimate business enterprises and that, insofar as crimes may have been committed in connection with particular aspects of these economic functions, the defendants were not involved in such offenses.

In this section, evidence of the prosecution, on pages 484 to 549 is followed by evidence of the defense on pages 549 to 577. Further evidence concerning another aspect of the economic activities of the WVHA is reproduced in section, "Acquisition and Disposal of Property and Valuables of 'Evacuated' Jews, 'Action Reinhardt,'" beginning at page 692. Special reference is made to defense evidence contained in section, "Development and Organization of the WVHA," beginning at page 290, and to defense argument contained in the closing statement of the defendant Pohl, beginning at page 865.

2. SELECTIONS FROM THE EVIDENCE

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-1034	444a.....	Letter by Hohberg to Pohl, 18 September 1940, concerning incorporation of SS Economic Enterprises in Dachau into German Equipment Works; Letter of Pohl, 31 January 1940, ordering this incorporation; Letter of Hohberg, 11 September 1940, concerning interest of SS in furniture factories in the Government General.	484
NO-1276	428.....	Letter co-signed by Mummmenthey and Salpeter, to Pohl, 30 December 1940, rejecting the offer that DEST (German Earth and Stone Works Ltd.) acquire the Gmunden Lime Co. in Austria.	486
NO-1273	430.....	Statement on legal structure and plants of DEST (German Earth and Stone Works Ltd.) 30 May 1941, showing positions of Mummmenthey and Pohl.	487
NO-3798	698.....	Letter by Pohl to Reich Commissioner for price control, 19 September 1941, stating scope of activities and management principles of the Main Office Administration and Economy firms stressing their cultural and social aims, and requesting preferential tax treatment.	489
NO-1021	448.....	Extract from letter of Bobermin to Hohberg, 23 November 1941, suggesting that WVHA take over building material plants only in Baltic Provinces, Ukraine, and Crimea, and not in the entire Russian territories.	492
NO-2147	30.....	Report co-signed by Volk, Georg Loerner, and others, 9 January 1942, concerning acquisition, expansion, and industrial utilization of concentration camp Stutthof near Danzig; and two preceding memoranda by Maurer, 17 and 11 December 1941.	493
NO-2150	31.....	Letter from Pohl to SS Gruppenfuehrer Hildebrandt, 17 January 1942, informing him of the Stutthof transaction and offering part	500

Doc. No.	Pros. Ex. No.	Description of Document	Page
		of the proceeds of the transaction for SS Settlement near Danzig.	
NO-2155	441	Note from defendant Mummmenthey to Staff W of WVHA, 19 August 1943, listing plants and workshops of his department which employ prisoners.	501
NO-1915	396	Letter of Volk to Eirenschmalz, Mummmenthey and Hohberg, 15 August 1942, informing them that Pohl asked Hohberg to handle the establishment of the slag utilization plant of the Hermann Goering Works at Linz.	502
NO-549	447a	Monthly business report from chief of office W IV to Pohl, 16 October 1942.	503
NO-1270	61	Queries concerning the proposed establishment of "OSTI" Ltd. in Government General; and file memorandum, 13 February 1943, about conference of Pohl, Georg Loerner, Volk, and Hohberg concerning these queries.	505
NO-1265	482	Letter of Dr. Max Horn to the defendant Hohberg, 26 February 1943, concerning the contract establishing "OSTI."	509
NO-1271	491	Extracts from auditing report, 21 June 1944, concerning activities and financial results of "OSTI" from its foundation in March 1943 until 29 February 1944.	512
NO-1039	384	Letter of Hohberg to Pohl, 10 April 1943, submitting for Himmeler a survey of capital and turnover, of economic enterprises of WVHA, with a short description of the firms.	528
NO-555	451a	Extract from business report of German Equipment Works Ltd. (DAW) for 1943, co-signed by Opperbeck and Niemann, March 1944.	536
NO-063	450a	Two memoranda by Globocnik designated as "enclosures:" (a) Orders on hand of the labor camps in the Lublin district, as of 3 November 1943; (b) Provisional report of the cash operation "Reinhardt" as of 15 December 1943.	538

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-1036	66.....	Letter by defendant Baier, 19 January 1944, informing office W IV of WVHA of conversion of labor camps in Government General into concentration camps, and establishment of a central administration of the DAW at Krakow; Memorandum, 13 January 1944, on same subject.	545

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Hohberg 73.....	Hohberg Ex. 70.	Affidavit of Martin Loeffler, 2 August 1947, concerning acquisition of factory of D. Drucker A. G. by WVHA.	549
Hohberg 74.....	Hohberg Ex. 71.	Affidavit of Konrad Heidenreich, 4 August 1947, concerning acquisition of factory of D. Drucker A. G. by WVHA.	550
Klein 9.....	Klein Ex. 9....	Certificate of Archiepiscopal Office of the Vicar-General in Paderborn, 21 March 1947, concerning Klein's negotiations for acquisition of church property for concentration camp Wewelsburg.	551
Klein 10.....	Klein Ex. 10....	Letter from SS Building Office Wewelsburg, 20 June 1939, containing Himmler's directives on acquisition of church property.	552

Testimony

Extracts from testimony of defendant Georg Loerner.....	553
Extracts from testimony of defendant Pohl.....	555
Extracts from testimony of defendant Mummenthey.....	563

TRANSLATION OF DOCUMENT NO-1034
PROSECUTION EXHIBIT 444a

LETTER BY HOHBERG TO POHL, 18 SEPTEMBER 1940, CONCERNING INCORPORATION OF SS ECONOMIC ENTERPRISES IN DACHAU INTO GERMAN EQUIPMENT WORKS; LETTER OF POHL, 31 JANUARY 1940, ORDERING THIS INCORPORATION; LETTER OF HOHBERG, 11 SEPTEMBER 1940, CONCERNING INTEREST OF SS IN FURNITURE FACTORIES IN THE GOVERNMENT GENERAL

Berlin, 18 September 1940
St. W. Ho/ Ha.

To: SS Gruppenfuehrer Pohl

Here

Subject: Incorporation of the SS Economic Enterprises in Dachau into the German Equipment Works.

By your letter of 31 January 1940, addressed to SS Standartenfuehrer Dr. Salpeter you have given instructions for the transfer of the Economic Enterprises Dachau to the German Equipment Works on the basis of the former's balance sheet of 31 December 1939.

SS Sturmbannfuehrer Maurer guarantees the assets on the balance sheet of the Economic Enterprises not to be over-estimated and all liabilities to be included in the balance sheet. Checking of the assets therefore is not necessary, since they will be examined anyhow in the course of the review of the German Equipment Works due on 31 December 1940.

With the object of rounding off the capital it would be advisable to put on the credit side an additional item for the rectification of values in stock on hand of RM 9,864.18 and another item of RM 10,000 as a reserve against possible bad debts, and to reduce the capital account to RM 500,000.

The capital of the German Equipment Works should be raised accordingly.

I attach a draft of a letter on this subject to the German Equipment Works.

[Signed] HOHBERG

III A/3 — Ma/Fe.

31 January 1940

Ext.74

[Marginal note] File

To the Chief of Office III A
SS Standartenfuehrer Dr. Salpeter
Here

Subject: Incorporation of the SS Economic Enterprises into
the *German Equipment Works G.m.b.H.*

Reference:

Enclosure:

I herewith direct, with effect from 1 January 1940, that the SS Economic Enterprises in Dachau be incorporated into the German Equipment Works Ltd. with all assets and liabilities.

The transfer is to be based on the balance sheet of 31 December 1939.

The Chief of the Administration and Economy Main Office

[initialled] P.

SS Gruppenfuehrer

St. W.Ho /Ha.

11 September 1940

[Initialled] Sch 11/9

[Stamp]

Mailed on: 11 Sept. 1940

[Initial illegible]

To the Plenipotentiary for the Governor General
of the Occupied Polish Territories
c/o SS Dr. Helmut Pfeiffer
[corrected to: Hauptsturmfuehrer]
Berlin W 35
Standartenstr. 14

With reference to the telephone conversation with SS Sturm-
bannfuehrer Maurer and economic examiner Dr. Hohberg we
herewith inform you that the Schutzstaffel [SS] is endeavoring
at present to expand the basis for the production of household
furniture.

You kindly undertook to locate furniture factories situated in
the Government General and to endeavor if possible to arrange
for such factories to be transferred to the Schutzstaffel. We al-
ready know that a good-sized furniture factory in Radom (750
workmen) could possibly be acquired.

Please accept our thanks in advance for your endeavors.

BY ORDER

[Marginal note] Follow up directly.

Heil Hitler!

[Signed] HOHBERG

TRANSLATION OF DOCUMENT NO-1276
PROSECUTION EXHIBIT 428

LETTER CO-SIGNED BY MUMMENTHEY AND SALPETER, TO POHL,
30 DECEMBER 1940, REJECTING THE OFFER THAT DEST (GERMAN
EARTH AND STONE WORKS LTD.) ACQUIRE THE GMUNDEN LIME
CO. IN AUSTRIA

The Chief of Office III A
III A A/Dr. S/A.

Berlin, 30 December 1940

[Handwritten notation] 1204 Abl

[Initials] W

R

P5

To the Chief of the Main Office Administration and Economy
Berlin-Lichterfelde-West
Unter den Eichen 127
Subject: Gmunder Kalkwerke A.G. [Gmunden Lime Co.]
Enclosure: 1 Reference matter

In our capacity as managing directors of the Deutsche Erd- und Steinwerke G.m.b.H. [German Earth and Stone Works Ltd.] we still adhere to the principle that it would be advisable to keep the present form of this enterprise as a typical enterprise run on prison labor. This policy does not allow for partnership of other enterprises, which are run on strict lines of private economy, as e.g., the Gmunder Kalkwerke A.G. [Gmunden Lime Co.]

Moreover, there are no means available to us to seek partnerships in private enterprises. The splitting-up of funds allotted by the GBI [Plenipotentiary General for the Industries] for enterprises run on prison labor would be contrary to the existing agreements. And finally, our staff of co-workers is not large enough to engage in another enterprise.

These should be decisive reasons for rejecting the offer of comrade Berger.

Reference matter is herewith returned.

[Signatures] DR. SALPETER
SS Standartenfuehrer
MUMMENTHEY
SS Sturmbannfuehrer.

TRANSLATION OF DOCUMENT NO-1273
PROSECUTION EXHIBIT 430

STATEMENT ON LEGAL STRUCTURE AND PLANTS OF DEST (GERMAN EARTH AND STONE WORKS LTD.), 30 MAY 1941, SHOWING POSITIONS OF MUMMENTHEY AND POHL

R — Dr. Rei/H —

30 May 1941

1. Firm: German Earth and Stone Works Ltd.
2. Original capital: RM 500,000
3. Date of incorporation: 10 June 1938
4. Managers [Geschaeftsfuehrer]:
 - a. SS Standartenfuehrer Dr. Salpeter since 16 June 1939.
 - b. SS Sturmbannfuehrer Mummenthey since 20 September 1939. [handwritten and crossed out] (Inquire about salary at Herr Foerster)
5. Executives with power of attorney [Prokuristen]:
 - a. SS Hauptsturmfuehrer Schwarz since 18 January 1940.
 - b. SS Hauptsturmfuehrer Schondorff since 18 January 1940. [handwritten and crossed out] (Inquire about salary at Herr Foerster)
6. Purpose of the company: According to paragraph 3 of the company's contract:

- a. The exploitation of stone quarries.
- b. The procurement of natural stones.
- c. The production of bricks and clinker stones.
- d. The undertaking of road building.
- e. The operation of all the other affairs connected with the procurement of stones and utilization of earth.
- f. The undertaking of affairs or the participation in affairs which are suitable to promote the aforementioned purposes.

7. Partners [Gesellschafter]:

a. SS Gruppenfuehrer Pohl with a share in the business of RM 480,000.

b. The German Economic Enterprises Ltd. (Deutsche Wirtschaftsbetriebe G.m.b.H.) with a share in the business of RM 20,000.

8. Fiscal organic relationship to the German Economic Enterprises Ltd.

9. Supervisory Board [Aufsichtsrat].

10. Representation of the company according to paragraph 7 of the company's contract.

The company is represented by one or several managers. If several managers are appointed, two of them are jointly representing the company at any given time.

Either partners or other persons can be appointed as managers. Besides the managers, executives with power of attorney may be appointed. An executive with power of attorney is only entitled to represent the company together with a manager or together with a second executive with power of attorney.

11. Plants.

a. Clinker Works Oranienburg, Oranienburg near Berlin.

b. Clinker Works Hamburg, Hamburg—Neuengamme.

c. Clinker Works Weimar, Berlstedt near Weimar.

d. Granite Works Mauthausen, St. Georgen on the Gusen.

e. Granite Works Flossenbuerg, Flossenbuerg, O.D.

f. Granite Works Gross-Rosen, Gross-Rosen near Striegau.

g. Granite Works Natzweiler, Rothau (Alsace).

h. Stone Production Works Oranienburg, Oranienburg near Berlin.

Legal department
[Signed] Dr. REINTGES

For a correct copy.

[Signature] HIRSCHBERG

TRANSLATION OF DOCUMENT NO-3798
PROSECUTION EXHIBIT 698

LETTER BY POHL TO REICH COMMISSIONER FOR PRICE CONTROL,
19 SEPTEMBER 1941, STATING SCOPE OF ACTIVITIES AND MAN-
AGEMENT PRINCIPLES OF THE MAIN OFFICE ADMINISTRATION
AND ECONOMY FIRMS, STRESSING THEIR CULTURAL AND SOCIAL
AIMS, AND REQUESTING PREFERENTIAL TAX TREATMENT

Berlin-Lichterfelde-West, 19 September 1941
Unter den Eichen 127

St/W — Ho/N

To the Reich Commissioner for Price Control
Department A 1,
Berlin W 9,
Leipziger Platz 6/8

Subject: Statement as to corporations affiliated to the Main Office
Administration and Economy according to article 22
of the War Economy Decree.

A larger number of corporations belong to my main office.
The total of their shares are with the Deutsche Wirtschafts-
betriebe G.m.b.H., which also belongs to my main office.

The following individual concerns have been incorporated in
the Deutsche Wirtschaftsbetriebe G.m.b.H.:

Deutsche Erd- und Steinwerke G.m.b.H.,
Anton Loibl G.m.b.H.,
Porzellan-Manufaktur Allach-Muenchen G.m.b.H.,
Bohemia Keramische Werke AG,
Sudetenquell G.m.b.H.,
Heinrich Mattoni AG,
Porag Porzellan-Radiatoren G.m.b.H.,
F.F. Bauer G.m.b.H.,
Nordland-Verlag G.m.b.H.,
Deutsche Ausruestungswerke G.m.b.H.,
Deutsche Versuchsanstalt fuer Ernaehrung und Verpflegung
G.m.b.H.

In the course of the year 1941 a number of further corpora-
tions were added. However, they are not yet of interest for the
statement according to article 22 of the War Economy Decree
for 1939 and 1940.

The "Fuehrerprinzip" [leadership principle] which is strictly
applied within the SS also has been applied in the SS *enterprises*
with the same strictness and effectiveness as in the administra-
tive sector. In charge of the enterprises are either office chiefs
[Amtschefs] or chief department leaders [Hauptabteilungsleiter]

who, without any exception, are disciplinarily subordinate to me in my capacity as Main Office Chief [Hauptamtschef].

Between the parent company and the subsidiaries agreements eliminating profits have been signed which, in regard to turnover taxes as well as trade taxes and corporation taxes, have been approved by the appropriate finance authorities after thorough screening.

The liaison between parent corporation and subsidiaries is so close as regards economy that one cannot speak of independent enterprises but in some way of branch departments of the parent corporation. Things are as if all enterprises were consolidated in one single corporation, yes, even as regards the authority of the manager of the parent company, his power is still considerably greater with regard to his administrative disciplinary authority than that of the manager of a regular private or public corporation.

However, the individual spheres of activity of the enterprises are altogether different. Quarry work is being done, bricks are being made, chinaware is being manufactured, mineral waters are brought up, books are published, photos are sold, fruit juice is produced, furniture is made, farming and other things are done. To the person not concerned it might appear as if all these enterprises were not connected with one another.

However, that is not the case. The enterprises of the Schutzstaffel are carrying out only business resulting from the individual tasks given to the Reich Leader by the Fuehrer. Engaging in activities in the building material sphere results from the task of the Reich Leader working in his capacity of Reich Commissioner for Strengthening of Germanism. Barrack furnishings and the like are being made because the Reich Leader has been assigned the task of reeducating the internes in the camps as useful human beings. The Reich Leader penetrated into the sphere of the mineral water and soft drinks industry because in his capacity as chief of the German Police he is fighting a campaign against the misuse of alcohol, and since his appeal to the economy, to initiate an arrangement of equal prices for drinks containing alcohol and those free of alcohol was very little favored. Now he himself is going to see to it that mineral water will not be more expensive than beer. Also in the field of book publishing and picture print the Fuehrer has assigned the Reich Leader definitely outlined tasks. So the Schutzstaffel operates its enterprises exclusively for the purpose of fulfilling absolutely definite tasks which without exception are of a cultural and social nature. On principle the Schutzstaffel refuses to operate any kind of enterprise for the mere purpose of gaining money thereby.

Besides that conscious efforts have already been made in the enterprises operated by the Schutzstaffel for the purpose of achieving the aim of article 22 of the War Economy Decree—the lowering of prices.

The fact that for the achievement of certain cultural aims measures have to be taken which would not be taken by a mere private economist is just the cause which results in temporary losses for some of these enterprises. The costs of just a few research institutions, which are closely connected with the enterprises, will be pointed out.

It is the will of the Reich Leader that profits gained by some consolidated enterprises will be used for the compensation of losses of such enterprises which due to their noncommercial aims are partly doomed to suffer losses, perhaps for years to come. Taking into consideration that all the enterprises of the Schutzstaffel which are consolidated in the Deutsche Wirtschaftsbetriebe G.m.b.H., are constituting one inseparable whole, I apply for approval that only one consolidated statement is to be submitted in compliance with article 22, War Economy Decree for all corporations comprised by the Deutsche Wirtschaftsbetriebe G.m.b.H.

In case that because of fundamental considerations only a consolidation of the statement for enterprises of the same business branch should be possible, I request that a fundamental decision in regard to all corporations comprised by the Deutsche Wirtschaftsbetriebe G.m.b.H. be made to the effect that excessive profits of the individual incorporated enterprises will not go to the finance office but will be used for compensation of losses of the unprofitable companies of the Deutsche Wirtschaftsbetriebe G.m.b.H.

I have instructed the incorporated companies of the Deutsche Wirtschaftsbetriebe G.m.b.H. not to submit individual statements in compliance with article 22 of the War Economy Decree, however, I instructed them to inform the appropriate price control office. I ask for your consent to this measure.

Heil Hitler!

[Initialled] P

SS Gruppenfuehrer and Ministerialdirektor

TRANSLATION OF DOCUMENT NO-1021
PROSECUTION EXHIBIT 448

EXTRACT FROM LETTER OF BOBERMIN TO HOHBERG, 23 NOVEMBER
1941, SUGGESTING THAT WVHA TAKE OVER BUILDING MATERIAL
PLANTS ONLY IN BALTIC PROVINCES, UKRAINE AND CRIMEA,
AND NOT IN THE ENTIRE RUSSIAN TERRITORIES

The Chief of Office W II Ac/Schi
To Dr. Hohberg
Berlin-Lichterfelde—West,
Unter den Eichen 127

[Handwritten] 2031
Poznan, 23 November 1941
Wilhelm Gustloffstrasse 5-4375-

Subject: Russia—Tileries Report to Reich Leader SS
Reference: Yours of 20 Sept. 1941 WL/N.
Enclosure:—

[Stamp]
Delivered: 27 November 1941
Distribution:
St. W.L
St. W.St.
St. W.R.
St. W.V.
St. W.P.
file z.d.A.

Dear Dr. Hohberg:

In regard to the above-named letter I am of the following
opinion:

[Re] *to 1*

The Reich Marshal stated in his letter to the Reich Leader of 28
August 1941, that the closing of the managements of the indus-
trial forces of the Russian territory can only be accomplished by
strong concentration. I, too, have always expressed that opinion
on my part in regard to the treatment of the Russia plants. In
my opinion, it cannot be a question of the SS, acting through the
Administration and Economy Main Office, occasionally taking
over the management of the one or the other building-material
plant in the entire Russian territory; but rather, an able and
interested branch of the movement or some other organization
must be appointed for each geographical district of the Russian
territory. Since if only for lack of personnel the SS would scarcely
be able to manage the brickworks and the other building-material
plants in the entire Russian territory, we must limit ourselves
to choosing those districts which are of particular interest to the
Reich Leader SS. These are described in the letter of the Reich

Leader SS to SS Gruppenfuehrer Pohl (probably in August this year). I remember particularly the districts of the former Baltic provinces and the Ukraine together with the Crimea. I think it would be to the best purpose if the Reich Marshal were to order the Reich Leader SS to take over all the building-material plants of those two districts and manage them. The other districts, as for instance, White Russia, could be managed by the Organization Todt, another district by the SA, another perhaps by the Hermann Goering Plants.

Such a regulation would bring about the strong concentration, which is requested by the Reich Marshal and would prevent the members of various organizations within a geographical district from passing each other when inspecting their plants which lie helter-skelter. The transport question and thousands of other problems connected with the management of the plants can also be solved much more easily if a definite closed district is united in one hand.

According to the facts, which were established in the former Baltic provinces, the plants there could be operated with the original personnel, so that only a comparatively small office is necessary as a work center for the entire management.

The Ukraine is proposed, because as far as I know the SS has a special interest in it.

I assume, that the report of the Reich Leader SS to the Reich Marshal about the present results of the general-trustee administration will convince the Reich Marshal, that the V and W Main Office is quite able to accomplish such far reaching industrial tasks.

[Re] to 2

* * * * *

The Chief of Office W II

[Signed] Dr. BOBERMIN

SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT NO-2147
PROSECUTION EXHIBIT 30

REPORT CO-SIGNED BY VOLK, GEORG LOERNER AND OTHERS *, 9
JANUARY 1942, CONCERNING ACQUISITION, EXPANSION AND
INDUSTRIAL UTILIZATION OF CONCENTRATION CAMP STUTTHOF
NEAR DANZIG; AND TWO PRECEDING MEMORANDA BY MAURER,
17 AND 11 DECEMBER 1941

The Chief of Amt II — Buildings

* See final statement of defendant Hans Loerner concerning Stutthof concentration camp, pp. 940 to 941.

CH. II 31/Se
To the Chief of the Main Office

Berlin, 9 January 1942
[handwritten notes]

F

decision making

P 12

Subject: Concentration Camp Stutthof, Inspection on 8 January 1942

Reference: Establishment order by the Reich Leader SS of December 1941

Journal No. I. 13/42.

As ordered, representatives of the Amt II and the W offices inspected on the 8th instant, the site of the concentration camp Stutthof. The following participated in the inspection:

Chief of Office [Amt] II.

The Inspector of all W offices SS Stubaf. Maurer.

Chief of W Amt V, SS Stubaf. Vogel

Chief of W Amt IV SS Hstuf. Dr. May, and SS Stubaf. Bestle

From the Staff, Chief Main Office SS Ostuf. Dr. Volk.

From the Main Sector [Oberabschnitt], SS Stubaf. Schilling.

For SS Gruf. Hildebrandt, SS Staf. Dethof.

The Commandant of concentration camp Stutthof SS Hstuf. Pauly.

The outcome of the conference was agreed to later on in all respects by SS Gruf. Hildebrandt. The following sites were inspected: the real estate of the CC Stutthof including the brickworks and the estate Werderhof as well as the building plot which had been earmarked for the General SS in Gotenhafen [Gdynia].

Based on the inspection the following suggestions are being made by the undersigned:

1. According to the "Establishment order" given by the Reich Leader SS the *CC Stutthof* is supposed to house 25,000 prisoners, including PW's.

It is necessary for this to purchase the existing real estate and to buy additional ground.

The Main Sector [Hq], has already prepared, in cooperation with the competent agencies of the Prussian Forest Administration, the purchase of the site on which the existing real estate including the forestry buildings are situated.

The Reich grants to the amount of RM 300,000, made up to now by the Chief of the Order Police from the Reich Fund for the reconstruction of Danzig, have already been accounted for with the Budget Court of the German Reich.

The Reich Security Main Office took over the camp in October

1941, but did not allocate any funds up till now. Consequently only a formal taking-over of the jurisdiction over the camp from the Reich Security Main Office by the Waffen SS, Inspector of CC's and the Main Office Budget and Buildings is necessary.

The value of the real estate of Stutthof, lock, stock, and barrel, as set up by the Oberabschnitt [Main Sector] is said to be appraised by the competent agencies at 1.4 millions, *not including* living or dead inventory.

Amt II-Buildings will immediately dispatch an appraiser to Stutthof in order to carry out its own appraisal.

The thereby established appraisal value should then, according to the wish of the Higher SS and Police Leader SS Gruf. Hildebrandt, be put at the disposal of the Oberabschnitt by the Reich through the Main Office Budget and Buildings for the purpose of financing a settlement for officers and NCO's of the Oberabschnitt. The Oberabschnitt though, in the case of a transfer of Reich funds, would be obliged to report these funds to the Reich Treasurer [NSDAP] who would have to account for them with the Reich. These sums would consequently be lost to the Oberabschnitt.

For this reason it is proposed to let the DWB [German Economic Enterprises Ltd.] act as legal agent and purchaser of the real estate Stutthof, which would then appear towards the Reich as owner and proprietor, after the purchase with the Oberabschnitt had been carried out.

[marginal note] Yes

This procedure is necessary because at present the land on which the real estate is situated has not been validly purchased from the Oberabschnitt.

A draft for a purchase agreement is on hand.

For the erection of a CC for approximately 25,000 inmates including the erection of a special camp for free labor (Poles), this for the running of the factories, the drawing-up of a master building plan is necessary; in this connection the agricultural buildings outside the territory of the CC Stutthof, as requested by the chief of office W V [5], are to be taken into consideration.

The Reich Leader SS has ordered that the already existing massively built school is to remain as officers' club and headquarters building and that a new school building is to be erected near the sea for the Oberabschnitt, as an exchange. Furthermore, a number of block houses are to be constructed for recreational purposes in connection with the schoolbuilding at the seaside.

Office II—Buildings will draw up right away a building plan in order to secure the necessary land purchase and submit the same to the chief of the Main Office.

The additional land purchase is to be prepared by the Oberabschnitt for this purpose in connection with negotiations already carried out.

Recommendation:

Office II [should] evaluate the real estate Stutthof and draw up a building plan. The German Economic Enterprises Ltd. [should] purchase the site Stutthof from the Prussian Forest Administration and resell the real estate to the Reich represented by the Main Office Budget and Buildings.

Office II [should] establish a central construction office of the Waffen SS and Police, taking over into their service, the present construction manager SS Ustuf. Naubauer.

2. A brickwork with farm, Gut Werdershof is located near Stutthof. In order to ascertain a permanent employment of the prisoners etc., of the concentration camp Stutthof aside from the shops, it appears necessary that the Reich obtain the brickworks which have a clay supply for 50 years and a yearly output of eight million perfect bricks.

The competent Amt W I has no objections against the purchase of the brickworks, and no objections are raised by the competent office, Amt W 5 against the purchase of the annexed farm of 360 Morgen.

Expert opinion of SS Hstuf. Schondorff will be submitted separately.

Recommendation:

Amt W I and Amt W V [should] purchase brickworks and farm Werdershof.

[Marginal note] YES

3. Part of the prisoner camp Stutthof are the following *labor camps*:

a. *Potulitz* near Nakel, at present filled up with evicted Polish families, counting about 5,000 souls. They are billeted in the existing buildings on a ground of 30,000 qm; it is church property leased by the Reich Security Main Office.

At present barracks for 10,000 prisoners are built; under construction are seven barracks. The families are occupied with the construction of the barracks and work for other employers.

The guards are billeted in Schloss Potulitz which is 1,800 Morgen large and has a sawmill with two framesaws. At present the estate is managed by the Ostlandbereitschaft.

It is suggested to lease the estate as a labor camp of Stutthof—Amt W V—for the further labor allocation of the Polish families who are to be kept [in confinement] for at least another 2 or 3 years, and to take over the lease of the castle from the Reich Security Main Office.

[Marginal note] YES

Amt II is going to reorganize the plan, according to the principles of the concentration camps.

b. *Labor camp Muehltal near Bromberg.*

At present filled up with evicted Polish families counting 1,500 souls, they are at present billeted in the carbide plant. Because the carbide plant will have to be evacuated in spring 1942, the above-mentioned Polish families are to be transferred to Potulitz; at present the barracks for them are under construction. The labor camp Muehltal is thus going to be dissolved in spring 1942.

c. *Thorn [Torun].*

At present filled up with evicted Polish families, counting 4,000 souls. They are billeted in what was once a factory for edible fat. Labor allocation for Wehrmacht and civilian employers. Because the families have to be kept in confinement for another 2 or 3 years, it is suggested to establish an economic enterprise in the former fat factory, as labor camp of Stutthof (clothing manufacture or carpentry shops) and to declare this enterprise as labor camp of Stutthof. The lease of the former fat factory should not be difficult; it is at best carried out by a W Amt.

[Marginal note] YES

The decision of the Main Office will be submitted to the Oberabschnitt in Danzig, the Commander of the Concentration Camp Stutthof, the Inspector of the Concentration Camps and the concerned Aemter I and II, as well as to the Aemter Staff W and I, W I, W IV, W V.

[Marginal note] F.

Staff W

[Signed] MAY

[Signed] DR. VOLK

Amtschef W V

Staff I

[Signed] VOGEL

[Signed] MAURER

Amtschef II

Amtschef W I

[Signed] LOERNER

Amtschef W IV

Memorandum

Subject: Civilian internment camp Stutthof.

Reference: Conference of 12 December 1941.

On the 12th of this month a conference took place with the chief of the Main Office regarding the taking over of the civilian internment camp Stutthof. Beside the chief of the Main Office and me, SS Standartenfuehrer Dethof, SS Obersturmbannfuehrer Pauly, and SS Obersturmbannfuehrer Schilling took part in this conference.

The following was stated by the chief of the Main Office:

1. As a concentration camp, the civilian internment camp falls under the jurisdiction of SS Brigadefuehrer Gluecks. SS Ober-

sturmbannfuehrer Pauly is to be camp commandant of the new concentration camp. The administrative head is to be SS Untersturmfuehrer von Bonin. He had been appointed by SS Obersturmbannfuehrer Kaindl. The economic enterprises change over to the realm of the German Equipment Works Ltd. [Deutsche Ausruestungswerke G.m.b.H.], effective 1 January 1942. These are under the jurisdiction of the chief of the Main Office. All other buildings and installations will be turned over to the German Reich since the policy treasury has paid RM 300,000 in Danzig.

At the conclusion of the conference with the Chief of the Main Office, SS Obersturmbannfuehrer Schilling said to me that it was the idea of the Oberabschnitt to obtain funds for the Oberabschnitt Vistula for the intended construction of settlements by the Oberabschnitt by selling to the German Reich the buildings and installations of the present camp Stutthof which were not turned over to the German Equipment Works, but which will belong to the new concentration camp. In connection with this I have explained to SS Obersturmbannfuehrer Schilling that this affair can once again be discussed in Danzig. The fact is, that until now buildings have been constructed by the camp which have a far higher value than the amounts received from the police treasury at the time.

2. The brickworks at Stutthof are to be inspected and examined by SS Hauptsturmfuehrer Schondorff. SS Sturmbannfuehrer Vogel will inspect the estate Wedershof. SS Gruppenfuehrer Pohl is in agreement with this if both plants are acquired from the county, insofar as they are both found to be suitable.

3. With regard to the question of the settlement construction the chief of the Main Office explained that the SS Oberabschnitt and thus the Reich treasurer, shall not appear as supporter of settlement, which is to be carried out on the initiative of and for the purposes of the SS Oberabschnitt Vistula [Weichsel] and as such is incorporated for the first time in the General SS, but that the existing enterprise of the SS, the Cooperative House and Home Building G.m.b.H., Dachau [Gemeinnuetzige Wohnungs- und Heimstaetten Ltd., Dachau] shall be used as the intermediary.

SS Oberfuehrer Dr. Kammler and SS Obersturmfuehrer Dr. Volk will accompany me to Danzig in the beginning of January 1942. The Chief of the Main Office expects a report from me on 15 January 1942.

Berlin, 17 December 1941

[Signature] MAURER

SS Sturmbannfuehrer

Memo: As per agreement, SS Hauptsturmfuehrer Schondorff is traveling to Danzig on 17 December 1941 for inspec-

tion of the brickworks because the Landrat [County Councillor] wants to have a speedy decision on the question of the purchase of the brickworks.

12 December [19]41

2417

Report on an inspection of the Civilian Prisoners' Camp Stutthof and the workshops therein, which took place on 10 December 1941

1. *Civilian internment camp.*

The camp is situated in an area which has been acquired from the county of Danzig. It has been bought in order to erect an SS School for SS Main Sector Vistula. But in September 1939 it became necessary to find quarters for civilian prisoners (anti-social persons and Poles). That is how the camp Stutthof came into being. The main building is massively built. Camp headquarters and the guards are billeted there.

At present the camp has 1,024 inmates; out of which 100 are women; 650 are employed in the camp, about 250 thereof in the workshops. The remaining 376 prisoners work in outside [of camp] labor detachments in Elbing with contractors, normal wages for unskilled workers being paid to camp headquarters. The prisoners are accommodated in barracks. The workshops, viz, tailor shop, shoemaker shop, tinsmith shop, electrical workshop, locksmith shop, smithy, carpentry shop, upholstery, and painters' shop, are also in barracks.

The camp is very neat and properly equipped. After the Reich Leader SS has ordered the camp to be taken over as a regular concentration camp and the accommodation there of about 25,000 Russian prisoners of war, I consider the completion of the existing workshops and the taking over by the German Equipment Works Ltd. as very favorable. The written instruction by the Reich Leader is not yet in hand.

In 1939, the camp received 160,000 marks from Reich funds through the order police. In the opinion of the chief of administration, this amount has to be considered as a lost contribution. The camp did not need any additional funds. It paid itself for all constructions as well as for the food of the camp inmates. The camp has considerable returns from detailing prisoners to building contractors at normal wages for unskilled labor, and from the work done at the workshops of the camp at normal prices.

2. *Agriculture.*

The camp does agricultural work too. For this purpose, 25 ha of soil was leased. The products are used mainly for supplying the camp. Pigs and angora [sheep] are bred.

It may be mentioned on this occasion that the Werdershof estate is situated in the vicinity of the camp. This farm belongs to the county and is for sale. The price is said to be 240,000 marks. The farm includes 100 ha soil (heavy soil). Mainly cultivated are wheat, rapeseed and turnips. The estate has 20 horses, 40 cows, and 60 pigs.

[Handwritten] VOGEL

3. A brick plant, also belonging to the county, is situated about 1 kilometer from the camp. I looked this brick plant over. It was built in the year 1937 to 1939. It consists of an annular kiln with 16 chambers, and produces 8 million bricks a year. At present, the "stout size" is sold to the army building office at 135 marks for one thousand.

The plant employs 41 men, 14 of them are provided by the camp. The plant is situated directly on the river bank. Shipment of the stones [bricks] is done by water. The clay deposit is said to be sufficient to produce 8 million bricks a year for 80 years, according to the manager. In addition, the plant produces tile and pipes.

According to information by the manager, the county asks 800,000 marks. The plant makes a faultless impression. The possibility of an extension by building a second kiln is given.

[Marginal note] Schondorff

Berlin, 11 December 1941

Ma/He.

[Signature] MAURER
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT NO-2150
PROSECUTION EXHIBIT 31

LETTER FROM POHL TO SS GRUPPENFUEHRER HILDEBRANDT, 17
JANUARY 1942, INFORMING HIM OF THE STUTTHOF TRANSA-
TION AND OFFERING PART OF THE PROCEEDS OF THE TRANS-
ACTION FOR SS SETTLEMENT NEAR DANZIG

Berlin-Lichterfelde-West, 17 January [19]42
Unter den Eichen 127.

Stab — J — Ma/Pe.

To the Fuehrer of the SS Main Sector Vistula
SS Gruppenfuehrer and Major General of the Police Hildebrandt
Danzig

Subject: 1. CC Stutthof.
2. SS settlement near Danzig.

My dear Hildebrandt:

After my representatives reported to me about the inspection

made on the 8th of the month, I ordered that the land on which the concentration camp is now located is to be acquired and after an evaluation of the estate on hand to be sold together to the German Reich.

A construction plan will be set up for the enlargement of the concentration camp and the workshops. The brickworks which are situated near the CC should be acquired or leased and the nearby agricultural estate also. The negotiations about the acquisition or lease will be carried out in the next days by my representatives in Danzig.

To what extent the work camps Potulitz, Muehltal, and Thorn [Torun], which are at present in the charge of SS Hauptsturmfuehrer Pauly, could be used for our purposes, can be ascertained only after the inspection is accomplished. I have delegated SS Sturmbannfuehrer Maurer to carry out this inspection in the next coming days.

The planning of the contemplated SS settlement near Danzig, shall be continued here, taking into account the plans which are already on hand there.

Besides, I am ordering the compilation of an estimate of cost for this settlement. I shall take into consideration as far as possible your wish to put at [your] disposal the resources left from the sale of properties in Stutthof for the purposes of the SS settlement. As soon as the estimate is at hand, you [shall] hear from me again.

Heil Hitler!

Your

[Signed] POHL

SS Gruppenfuehrer and Major General of the Waffen SS

TRANSLATION OF DOCUMENT NO-2155
PROSECUTION EXHIBIT 441

NOTE FROM DEFENDANT MUMMENTHEY TO STAFF W OF WVHA,
19 AUGUST 1943, LISTING PLANTS AND WORKSHOPS OF HIS
DEPARTMENT WHICH EMPLOY PRISONERS

Office Chief W 1
R — Dr. Schn/KI

Berlin, 19 August 1943

[Stamp]

Mail Received 26 August 1943

Distribution

St.W.L.

St.W.St.

St.W.R.
St.W.V.
St.W.P.
Filed

[illegible initial]

Staff W

Subject: Adjustment Fund

Reference: Your letter of 17 August [19]43.

The following plants and workshops of my department are employing prisoners:

1. Oranienburg:
 - a. Large Brick Works.
 - b. Stone Masonry Works.
2. Clinker Works Hamburg-Neuengamme.
3. Clay Works Berlstedt near Weimar.
4. Clay Works Stutthof-Hopehill with the workshops:
 - a. Brick Works Stutthof.
 - b. Brick Works Hopehill.
5. Blast Furnace Slag Works Linz.
6. Granite Works Flossenbuerg.
7. Granite Works Mauthausen.
8. Granite Works Gross-Rosen.
9. Granite Works Natzweiler.
10. Upper Silesian Gravel Works Auschwitz.
(Allocation of prisoners here to be terminated soon.)
11. Gravel Works Treblinka.
12. Bohemia—Neurohlau.
13. Porcelain Manufactory Allach with the workshops:
 - a. Dachau.
 - b. Allach.

[Signed] MUMMENTHEY
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT NO-1915
PROSECUTION EXHIBIT 396

LETTER OF VOLK TO EIRENSCHMALZ, MUMMENTHEY, AND HOHBERG, 15 AUGUST 1942, INFORMING THEM THAT POHL ASKED HOHBERG TO HANDLE THE ESTABLISHMENT OF THE SLAG UTILIZATION PLANT OF THE HERMANN GOERING WORKS AT LINZ

[Stamp]

File under: Schlackenwerk
[Slag-plant] Linz [handwritten]

Personal Referent

Berlin, 15 August 1942
Dr. Vk/Si

[Stamp]

Mail received: 17 August 1942
Distribution:
St. W.L. Gr 22 Aug. [handwritten]
St. W. St.
St. W. R.
St. W. V.
St. W.P.
File

SS Obersturmbannfuehrer Maurer
Oranienburg.
SS Standartenfuehrer Eirenschmalz
here
SS Sturmbannfuehrer Mummmenthey
Berlin W 50.
Economic Examiner Dr. Hans Hohberg
here

Subject: *Slag Utilization Plant of the Hermann Goering Works
at Linz.*

Concerning the establishment of the slag utilization plant of
the Hermann Goering Works at Linz, SS Obergruppenfuehrer
Pohl has given instructions that Dr. Hohberg shall handle [feder-
fuehrend] the transactions.

I therefore request all offices in the building to keep in touch
with Dr. Hohberg, since he alone is to keep the Obergruppen-
fuehrer informed by memo.

[Signed] DR. VOLK
SS Obersturmfuehrer

PARTIAL TRANSLATION OF DOCUMENT NO-549
PROSECUTION EXHIBIT 447a

MONTHLY BUSINESS REPORT FROM CHIEF OF OFFICE W IV TO
POHL, 16 OCTOBER 1942

The Chief of Office W IV
Re/T

Berlin, 16 October 1942

[Handwritten] very good
To the Chief of the Main Office in the building
[Handwritten] for information
[of] staff W [Initial illegible]

Subject: Monthly reports
Enclosures: 4
Obergruppenfuehrer,

I herewith transmit to you the reports on the industrial enter-

prises centralized in office W IV for the month of September 1942 with the following remarks:

W IV/1 a, German Equipment Ltd. Enclosure 1

Profits for the month of September amount to RM 248,079.68; total profits from 1 January until 30 September [19]42 amount to RM 1,625,717.81. The turn-over in September was RM 789,295.01.

The repair order for skis of the Wehrmacht has been completed after the rest of the bindings had been supplied by the Wehrmacht. The skis still on hand at the different workshops will be dispatched immediately on request.

The plant in Dachau during the last month has completed the rest of the furniture for settlers.

During the month of September 6,000 packing-containers were taken over by the sales committee of the OKH without objection so that 10,000 could be supplied in the meantime. A further 3,000 will be completed shortly. The plant Buchenwald continues supplying the fittings of the containers, as before.

In the plant in Auschwitz a further 3,000 three-storied wooden bedsteads and 3,000 plank-beds were completed for camp headquarters during the last month.

The plants in Dachau, Buchenwald, Auschwitz, and Sachsenhausen started immediately with the production of doors and windows on order for the Construction Staff Speer, notwithstanding the fact that the required authorization slips for timber and the rest of the iron consignments repeatedly claimed for, have not been made available so far.

During the period covered by this monthly report the plant in Stutthof has started with the repair of the 10,000 pairs of military boots on order.

b. Timber and saw mills Bachmanning Ltd. Enclosure 2

The turn-over amounted to RM 21,430.86 during the last month. 275 cbm. of logs were sold.

[Marginal note] Is Bachmanning still allowed to do business?

W IV/2 German High-quality Furniture Company Enclosure 3

Profits of the plant for the month of September amounted to RM 45,389.40. The turn-over amounted to RM 257,407.54 during the month of the report. The foundation for the machinery for one wing of the factory I, as well as the drains including the concrete floor of the hall, have been completed.

The machines on hand have been installed.

W IV/3 German Homemaking Ltd. Enclosure 4

Net profits for the months August and September 1942 amounted to RM 24,319.80. The turn-over during the same period

was RM 122,977. Sales during September also developed favorably.

[Signed] OPPERBECK
SS Hauptsturmfuehrer

TRANSLATION OF DOCUMENT NO-1270
PROSECUTION EXHIBIT 61

QUERIES CONCERNING THE PROPOSED ESTABLISHMENT OF "OSTI" LTD. IN GOVERNMENT GENERAL; AND FILE MEMORANDUM, 13 FEBRUARY 1943, ABOUT CONFERENCE OF POHL, GEORG LOERNER, VOLK, AND HOHBERG CONCERNING THESE QUERIES *

[Handwritten notation] Poniatowa near
Lublin or KL in the Ghetto
Queries re OSTI Ltd.

I. Mandate:

The Ostindustrie Ltd. is to utilize—

1. The Jewish manpower in the GG [Government General] in the sphere of the labor service for priority armament production.
2. The entire movable properties.

Is this mandate complete?

II. Jewish Manpower:

[Handwritten notation] both

1. Must this mandate be regarded primarily from a political-police or from an economic point of view? If it is primarily of a political-police nature, political considerations (concentration of the Jews) have to rank foremost, economic considerations have to remain in the background. If it is to be primarily of an economic nature, economic considerations must, however, predominate in the matter of the concentration of the Jews, as ordered.

2. How many Jews live in the GG, how are they split up as to sex and professional groups, who has the respective figures?

3. Where in the GG do Jews live and where are there "Jewish Enterprises" at present? (Enterprises employing Jews.)

III. Jewish property:

1. Who can give information about the nature, extent, and location of the existing Jewish movable property? Does such property still exist outside the Warsaw ghetto? Are the private hereditary estates of the Jews—as far as valuables are concerned—still handled outside the OSTI as they were formerly by the Special Action "Kersten" or Gruppenfuehrer Frank?

* These documents refer to the founding period of the "OSTI." For additional documents concerning the "OSTI," see Document NO-1271, and sections concerning the evacuation of Jews and Jewish enterprises in Lublin, on pp. 607-763.

2. Clarifying the legal position—
 - a. Who is the owner? Who is the possessor of the Jewish moveable property? [Illegible handwritten marginal notation.]
 - b. Which office handles the transfer of Jewish property to the OSTI
 - (1) Legally? (in pursuance of a directive ordinance yet to be issued by the GG Government or by the Reich Ministry of Economics)
 - (2) *de facto*?
 - c. How is the Jewish property to be taken over? Under a trusteeship or directly? How is the OSTI to render accounts?
3. When are the Jewish enterprises—hitherto not under the charge of the SS—to be taken over? Immediately? Gradually? In which form are they to be taken over, with indemnifications?

IV. *Economic Questions:*

1. Buildings.
 - a. Where and to what extent are there premises in GG—not needing much in the way of alterations or extensions—suitable for storage or manufacturing purposes, and where are these premises?
 - b. Have investigations already been made as to whether in such cases adequate supplies of water, coal, and raw material and, also railroad connections are available? If not, who is going to undertake the requisite, expert investigations? The main offices C or D?
 - c. How soon could manufactory and storage sheds be erected if required additionally?
2. Is it correct that in the GG new constructions of a certain size can no longer be erected in 1943?

Is it possible for the OSTI to acquire iron, timber, and other allotments of material obtained through forced labor for the remodeling and extension of their buildings?

Is it possible to obtain the necessary supplies of coal and electric current later?

3. Since the German machine industry is figuring on deliveries over a period of one, two, or three years, new machines will not be available for some time to come. Do the machines belonging to the Jewish movable properties suffice on an estimate to * * *
[Bottom of page cut off.]

4. Which firms, of what branches of the trade, and of what working-capacity are to be taken over by the OSTI?

- a. In Warsaw?
- b. Elsewhere?

Is anything known about the mechanical lay-out utility, loca-

tion, present working capacity, and the kind of merchandise produced by these plants?

5. Should these Jewish enterprises be transferred to the OSTI without exceptions or would it not be more advisable—at least for the time being—to transform these enterprises into KZ factories in such a way that the Jews are concentrated in camps and carry on their work—at least for the time being—in trustworthy private firms, namely in all cases where the OSTI does not command a sufficient number of skilled workers?

V. What possibilities has the OSTI for manufacture?

1. What tasks has the OSTI's mandate in the textile-sector?

a. Utilizing old material? [Crossed out in original.]

b. Utilizing torn material? [Crossed out in original.]

2. What process of utilizing old material is the OSTI supposed to undertake? Sorting, tearing, spinning, weaving, ready-made clothing? [Handwritten] and anything else?

3. Manufacture of ready-made clothing from material supplied—repair of old uniforms, old garments, etc.?

4. According to the opinion of experts, sorting, tearing, spinning, and weaving are not possible as the requisite installations are lacking. It might be considered to let the tearing of old material be done in craftsmen's shops concentrated in camps. The same with ready-made clothing, as long as raw material and orders are obtainable. Furthermore, the repair of old uniforms and of old garments might be handled after the fashion of the Lublin DAW (German Equipment Works).

5. Is there a chance of obtaining orders from the Wehrmacht for ready-made clothing or uniforms in the GG to the same extent as given to the ghetto-works? Is there a chance of obtaining orders from the Waffen SS? (These questions have been answered in the negative by experts.)

6. Therefore, if the work in the textile industry sector is confined to the tearing-up of old material and making repairs, how can the Jewish manpower be employed for armament priority in addition to the continuation of the armament industries outside of the textile sector?

7. Which are the priority armament-industries branches beside the textile sector (iron-industries, aircraft-manufacturing works)?

8. What kind of raw materials available in the GG could, if necessary, be utilized for new priority armament industries?

9. Transport—with reference to the future Lublin works.

Are the transport facilities such, that a large size industrial plant can be established in Lublin without difficulties? Has the industrial site railroad connection?

Have investigations been made as to how many tons of raw material and manufactured articles, how many tons of coal and other auxiliary material are required monthly or annually for the planned capacity of the Lublin plant, and also if the existing railroad system can cope with this tonnage?

VI. Queries regarding Personnel:

1. How many assistants will be placed at the disposal of the OSTI.

a. By the SS and Police Leaders?

b. By the SS Economic Administrative Main Office?

2. Is there a chance that the present commercial management of the Jewish enterprises—to be taken over now—can be taken over too?

VII. Line of Demarcation between the OSTI and the Labor Service:

1. Are KZ's to be established according to the German pattern which assigns the prisoners to the OSTI and other trustworthy firms?

2. Who is to be competent for the labor service? The SS Economic Administrative Main Office? The Higher SS and Police Leader in Krakow?

3. If query 1 is answered in the negative what other solution has been suggested?

File—Memorandum

With reference to the conference held on the 13 February 1943 with the SS Obergruppenfuehrer Pohl in regard to "OSTI"

Present: SS Obergruppenfuehrer Pohl.

SS Brigadefuehrer Loerner.

SS Hauptsturmfuehrer Dr. Volk.

SS Obersturmfuehrer Dr. Horn.

Dr. Hohberg.

SS Obersturmfuehrer Dr. Horn has asked for this meeting with the object of getting a clear line of directions for the newly founded OSTI. The discussions were based on the attached query sheet.

Obergruppenfuehrer Pohl answered the question I and III declaring that these were questions which would be answered better in due time at the proper spot instead of theoretically from a board of councillors and that it would moreover be the task of the management of the OSTI, i.e., SS Gruppenfuehrer Globocnik and the undersigned to decide between themselves. Only if SS Gruppenfuehrer Globocnik and the undersigned could not agree with the board of directors to be applied to, then he would make the decision. The query as to whether the Jews were to be con-

centrated as in the German KZ's and under German administration was answered in the negative by the Obergruppenfuehrer. He declared that at least for the time being it would be a matter for the OSTI to decide, later it could be discussed whether these KZ's were also subordinated or to be attached to office group D of the SS Economic Administrative Main Office.

Moreover he considered it important to work out the service regulations for the managers. These service regulations were to be submitted to him at the meeting on Tuesday.

With regard to the question, whether the Jewish properties were to be taken over under trusteeship or *de facto* the SS Obergruppenfuehrer's standpoint, was that the machinery and other equipment required by the OSTI must be acquired from the Reich Ministry of Economics. It follows, therefore, that the capital of the OSTI must needs be considerably extended.

The result of today's conference held at the Oberfuehrer's office for the undersigned is that the managing directors of the OSTI have a free hand for all necessary decisions and measures to be taken concerning the OSTI.

Berlin, 13 February [19]43

Hn/N

[Signed] DR. HORN
SS Obersturmfuehrer

1 Enclosure

Footnote.—With reference to the question of assistants SS Obergruppenfuehrer Pohl decided that the undersigned should first observe the conditions in the GG and that he should then apply to him [Pohl] the SS Economic and Administrative Main Office respectively for assistants.

TRANSLATION OF DOCUMENT NO-1265
PROSECUTION EXHIBIT 482

LETTER OF DR. MAX HORN TO THE DEFENDANT HOHBERG, 26
FEBRUARY 1943, CONCERNING THE CONTRACT ESTABLISHING
"OSTI"

Lublin, 26 February 1943

Dr. Max Horn
SS Obersturmfuehrer
Dr. H./T

[Handwritten] file OSTI

Dr. Hohberg
Chief of Office Staff W
SS Economic Administrative Main Office
Berlin

[Stamp]

Received: 8 March 1943

St.W.L.

St.W.St.

St.W.R.

St.W.V.

St.W.P.

File

Dear Herr Hohberg,

The letter you get almost daily from the GG [Government General] is somewhat more extensive today.

During the last few days SS Gruppenfuehrer Globocnik has put at the disposal of the OSTI an apparently very useful secretary who will be released from the HJ here in Lublin on 15 March. Under these circumstances I can do without Fraeulein Druschke. I have already written to Fraeulein Druschke concerning this stating, however, that possibly she might be needed temporarily for the office in Warsaw. In the meantime, however, it occurred to me that you are considering to place somebody for good in your anteroom, in replacement of Frau Neuschaeffer. In case you should decide to replace Frau Neuschaeffer by Fraeulein Druschke, I should naturally try to find another solution for Warsaw, the more so as I do not know at present, whether Warsaw needs Fraeulein Druschke at all.

The question of financing the OSTI is solved. There is sufficient money for the OSTI, a fact of which I have had repeated confirmation by SS Gruppenfuehrer Globocnik and which I myself have been able to establish too. Therefore, an original capital of 25,000 Reich marks will do. However, I do not know whether an increase in capital can be effected from the Government General. In any case there is sufficient credit at the disposal of the OSTI. I applied already to the competent office in Krakow in regard to an eventual increase in the OSTI's capital by deposits in the GG.

During my next stay in Berlin which I have tentatively set for 8 to 14 March, the company's contract, about which SS Gruppenfuehrer Globocnik will again write to SS Obergruppenfuehrer Pohl tomorrow, should be "safely under shelter." I do believe this will be possible, even if SS Hauptsturmfuehrer Dr. Volk will be on leave.

Perhaps you will be kind enough to have all necessary preparations made meantime.

Up to now the only alteration of contract desired by SS Gruppenfuehrer Globocnik is an enlargement of the Aufsichtsrat [supervisory board] by SS Obergruppenfuehrer Krueger and SS Oberfuehrer v. Sammern. Probably it will be enough if you fix

a date on which SS Obergruppenfuehrer Pohl, SS Brigadefuehrer Loerner, and the notary will be available.

The organization of the OSTI cannot be effected at the originally intended pace. The resettlement of the Jewish enterprises will probably last until June of this year, so that the OSTI will only be able to start properly by July of this year. Besides, the utilization of the movable Jewish property in Warsaw must be started, a matter which I have not been able to attend to so far. I will start to take up this problem next week.

However, the utilization of the movable Jewish property will fully occupy an office which must be staffed by at least 10 men; that much can be said now. At present I am still puzzled how to staff this office.

For the future OSTI itself the following plants are being considered:

1. *At Trawniki.*

- a. A factory for bristles and brushes, for which a manager is wanted apart from the necessity to examine, whether the existing Jewish labor will suffice to staff the bookkeeping department.
- b. An enterprise working on skins and hides, which is still owned by an Aryan proprietor who will move with his Jews to Trawniki.

2. *At Poniatowa.*

- a. An enterprise in ready-made clothes which is still owned by an Aryan proprietor, too.
- b. A newly to be established basket makers' workshop.
- c. A test plant for the utilization of textile rags also to be set up by OSTI.

3. *In Lublin.*

- a. An assembly shop for bicycles, to be set up by the OSTI.
- b. The iron processing plants established in the ghetto of Warsaw up to now.
- c. Factory for clogs.
- d. The former plants of the DAW, plant Lublin.

In regard to this last point I apply to you in the first place asking you to think it over. The OSTI is in its main parts nothing but the enlarged Lublin plant of the DAW. A number of small ghetto plants already removed are incorporated in the Lublin plant of the DAW [German Equipment Works]. What are we to take out again? How shall we fix the limits of the different branches of factories and fields of activity when DAW and OSTI will be existing side by side in Lublin in future? Who is to manufacture clogs and who is to manufacture shoes of straw? Who is to take over the iron processing plants? Who is to erect

barracks, and so on. Where are the Jews of the DAW and of the OSTI to be employed if there will be a temporary close-down for want of raw materials in one or another part of the plants?

Furthermore the Lublin plants do not have at their disposal a second technical manager besides SS Untersturmfuehrer Mohwinkel (DAW). Moreover the DAW plant has at its disposal the necessary trained Jewish office and other workers which might serve as a frame for all plants to be newly established. In one word, the future OSTI works in Lublin will and can be established only as an extension of the Lublin works of the DAW existing already.

Advantages—the process of absorbing the Jewish enterprises to be transferred to Lublin is being carried out smoothly. A second technical manager who, incidentally is not available, is not necessary. Questions of jurisdiction concerning DAW and OSTI will not arise. It is not needed to start a second administration for which, moreover, the personnel would not be available. Buying and sales departments can be managed uniformly and centrally.

I should be grateful if you would consider all these matters and let me have your personal opinion, without getting into touch before my return to Berlin with the SS Obergruppenfuehrer and SS Hauptsturmfuehrer Opperbeck, to whom I would like to report personally on these problems.

For the trouble you take in this matter I thank you in advance and remain with kindest regards and

Heil Hitler!
[Signed] Your MAX HORN
SS Obersturmfuehrer

TRANSLATION OF DOCUMENT NO-1271
PROSECUTION EXHIBIT 491

EXTRACTS FROM AUDITING REPORT, 21 JUNE 1944, CONCERNING
ACTIVITIES AND FINANCIAL RESULTS OF "OSTI" FROM ITS FOUNDATION
IN MARCH 1943 UNTIL 29 FEBRUARY 1944

*Report by the SS Unterscharfuehrer Johann Sebastian Fischer
on a rough audit of the books of the
Ostindustrie G.m.b.H., Berlin ("Osti")
concerning the period from the foundation of the company until
29 February 1944*

Prefatory Remarks

In April 1944 I received through SS Obersturmbannfuehrer

Mummenthey the order to audit the Ostindustrie G.m.b.H., Berlin ("OSTI"). For the purpose of carrying out this order I was sent to Wolomin in the Government General for the period of 21 until 26 May 1944.

On 1 March 1944 the dissolution of "OSTI," which had been founded in March 1943, was decided. A balance sheet was drawn up as of 29 February '44, which had the character of a balance sheet for the initiation of liquidation. I have audited the books for the period between the foundation of the company and the date of the liquidation balance sheet.

In view of the volume of the enterprise, the time at my disposal (5 days) was by no means sufficient to carry out the audit which is customary and necessary according to the usage practiced in the final audit of a joint stock company. Nevertheless, I have become so thoroughly acquainted with the management of the company's affairs that I am in a position to make the statement contained in the paragraph entitled "Final Remarks."

I obtained information from the former business manager of "OSTI," SS Hauptsturmfuehrer Dr. Horn, who has been appointed to wind up the business particularly from SS Sturmmann Tschech, who has worked with the company since November 1943.

I herewith submit the following report on the execution and the results of the auditing.

A. The Legal Basis of the "OSTI"

The company was founded on 12 March 1943 (No. 169/43 of the company register of notary, Dr. Wilhelm Schneider) and the society's charter was enacted. The company signs "Ostindustrie Gesellschaft mit beschraenkter Haftung" (East Industries Limited Liability Company). It has its domicile in Berlin and is entitled to establish branches. The object of the company, according to the statute, is—

To operate commercial enterprises, especially in textile and iron-processing industries, and to have a financial interest in such industries. The company can engage in any business which is designed to promote its own object.

The paid up capital was fixed by the charter at RM 100,000. Of this, Ministerialdirektor Oswald Pohl held RM 75,000 and Diplom Engineer Georg Loerner RM 25,000. Twenty-five percent of the capital of the company was paid in cash.

For the supervision of company management, the charter provides for a supervisory board [Aufsichtsrat] whose consent is necessary for certain legal transactions. Otherwise, the charter has no special features.

By virtue of a resolution of the partners of 19 March 1943, the following supervisory board was appointed:

Ministerialdirektor Oswald Pohl, Berlin, chairman.
Friedrich Wilhelm Krueger, Krakow, deputy chairman.
Dipl. Kaufmann Georg Loerner, Berlin.
Dr. Ferdinand von Sammern-Frankenegg, Warsaw.

SS Obergruppenfuehrer Krueger retired from the supervisory board on 20 May 1943. Dr. von Sammern-Frankenegg has withdrawn from the supervisory board. SS economist [of] Krakow Schellin, [at] Krakow, was newly elected.

The company was entered in the Trade Register at the Local Court, Berlin on 30 April 1943 under No. 564 HRB 59548. Managers appointed were Odilo Globocnik, Engineer, Berlin, and Dr. Max Horn, merchant, Berlin.

At the company meeting on 1 March 1944, the liquidation of the company was decided. The Local Court, Berlin, was notified of this decision on 10 March 1944 and it was entered in the trade register on 22 March 1944. Dr. Max Horn, Berlin-Wannsee, was appointed liquidator.

B. The Tasks of the Company

Vaguely as the aims of the company were circumscribed in the charter in fact the tasks of "OSTI" were originally very extensive. According to an order of the Higher SS and Police Leader, Krakow, "OSTI" had to administer all Jewish property within the territory of the Government General except cash, jewelry, and clothing and, in particular, to utilize the manpower of the Jews living in the Government General for tasks benefiting the Reich. In a discussion which took place on 1 June 1943 with the Higher SS and Police Leader of Krakow, the activity of "OSTI" was, however, very much restricted. After this, the following tasks were left to the company:

1. Utilization of the working capacity of the Jews by erecting industrial plants in the Government General in connection with the Jewish Labor Camps.

2. Taking over commercial enterprises which had been maintained by the agencies of the SS and Police Leaders in the Government General.

3. Taking possession of movable, formerly Jewish, property especially machines and raw materials. The machines were to be installed in the "OSTI" plants and the raw materials to be used there.

4. Utilization of machines, tools, and merchandise, formerly Jewish property, which had been transferred in the meantime to non-Jewish ownership.

"OSTI" has worked in a variety of branches of trade and industry during its existence. Thus, glassworks were operated in Wolomin, a peat-cutting plant was established in the marshes

near Lublin, brushes were manufactured, a big textile factory was taken over, an iron-processing plant was erected, etc. It may seem at first sight that this organization of factories is inorganic and that an enterprise controlled by the Schutzstaffel should not operate in so many different fields. This seemingly inorganic organization can only be understood in view of the development of "OSTI." In summer 1943 a great number of Jews were put at the disposal of "OSTI" as workers who had to be employed at once. The conditions for employing these workers in the textile and iron processing industries did not yet exist at that time because the plants and materials were not available. The available manpower had to be utilized in some way and the Jews had to be employed. It was planned and intended eventually to employ the workers mainly in the ironworks in Lublin and in the textile factory in Radom.

The main task of "OSTI" consisted definitely in utilizing Jewish manpower for the interests of the Reich. When in November 1943 "OSTI" was deprived of these workers, the basis of its activity was taken from it and liquidation remained the only possible way. This liquidation actually began in November 1943 after the withdrawal of the workers, as it was impossible to staff the enterprises with civilian workers.

As I was informed in the meantime, the liquidation decision of "OSTI" is to be cancelled and the glassworks at Wolomin, a plant which did not employ Jewish workers, is now to remain as the only enterprise of "OSTI." This does not alter the fact that the other factories of "OSTI" will be wound up.

C. Bookkeeping

The various plants of "OSTI" each have their own separate accountants' department and, except for the ironworks, they use the modern loose-leaf file system. The books of the various works were used by the Main Administrative Office for the yearly balance. The books were kept by Jews.

When the company was deprived of its workers in November 1943, the management was also confronted with difficulties in respect of bookkeeping. It is extremely difficult to carry on as an accountant where another bookkeeper left off.

SS Sturmman Tschech prepared the ledgers of "OSTI" in indefatigable labor and struck the balance. Today, the books give a clear picture of the firm's business; they are kept properly. All documents are filed in a way which permits easy access.

D. Working Out Profits with the SS and Police Leader Lublin

Before describing the various works of "OSTI," I have to point to an agreement, which is important for the calculation of profits.

A verbal agreement was made with the SS and Police Leader

Lublin—as I was informed—according to which “OSTI” had to pay to the SS and Police Leader Zl. [Zloty] 1.60 per Jew per working day.

Besides this, *profits permitting* Zl. 3.40 was to be paid for male Jews and Zl. 2.40 for female Jews, thus the following maximum amounts were provided for Jewish labor: for each day’s work of a male Jew Zl. 5.00; for each day’s work of a female Jew Zl. 4.00. The same agreement was made also with the SS and Police Leader at Radom. It applied to all those plants which were located within the districts of the SS and Police Leader concerned. In order to square the account with the SS and Police Leader Lublin, the plants of “OSTI” located within the District of Lublin were to be lumped together, i.e., the profit of the works with surplus was to be balanced against the loss of other works. “OSTI” earned in the plants of the Lublin district the wages-costs amounting to Zl. 1.60, but not the wages-costs amounting to Zl. 5.00 and Zl. 4.00 respectively. According to an estimate, Jews had worked about 285,000 days in the Lublin district by 3 November 1943. If one allocates two-thirds of these days to male and one-third to female Jews, at the rate of Zl. 5.00 and Zl. 4.00, about Zl. 1,330,000.00 would have to be paid to the SS and Police Leader Lublin. In fact, Zl. 457,000.00 was paid to the SS and Police Leader Lublin. Should “OSTI” show a profit on liquidation, Zl. 873,000.00 would therefore have to be paid up. The liquidation profit of the Lublin plants of “OSTI” will certainly not amount to that figure.

In practice therefore the G.m.b.H., [Ltd. Liability Co.] will neither obtain a profit from the factories in the Lublin district nor will it have to bear a loss. Later the compensation for Jewish labor was fixed at a rate of Zl. 3.70 per day with the SS and Police Leader Radom. As to this, I refer to article E, 4 of my report.

E. “OSTI” Factories

1. The Glassworks at Wolomin. In Wolomin in the Government General, about 40 km. east of Warsaw, “OSTI,” took over operation of two glassworks, Wolomin and Praca, in April 1943. The glassworks Wolomin formerly belonged to a Jew; it was first confiscated by the Senior SS and Police Leader Krakow and later by the trusteeship office of the Government of the Government General. “OSTI” has to rent these glassworks from the trusteeship office. At the time of my investigation, negotiations for a lease were not yet concluded.

* * * * *

The turn-over of the glassworks was around Zl. 3,200,000 during the period from 1 April 1943 to 29 February 1944. The proceeds are from 50 percent to 100 percent higher than they are in

the Reich. Compared with a works in the Reich, a turn-over of around RM 1,000,000 was achieved in the period mentioned. The works are under the direction of SS Oberscharfuehrer Mues, who is assisted by 3 members of the SS in supervisory positions. Six hundred and forty-five Polish workers are working in three shifts.

*	*	*	*	*	*	*
This works balance sheet shows a gross profit of . . . Zl. 490,314.74						
Deduct for extraordinary expenditure and expenditure						
not directly concerned with the work						Zl. 49,426.70
						Zl. 440,888.04

During the same period the following amount represents extraordinary profits from transactions not directly concerned with the works		Zl. 44,064.09
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Leaving a net profit of Zl. 484,952.13 for the period 1 April 1943 to 29 February 1944.

I have made several tests of the balance sheet and found no cause for criticism. The results of the 11 months' trading may be considered entirely satisfactory.

2. *The Peat Works of Dorohucza.* In the spring of 1943 the "OSTI" started an extensive mechanized peat-cutting plant in the marshes east of Lublin. It was intended to assure at least part of the fuel required by the remaining plants of "OSTI" and the Jewish labor camps. An installation for processing the peat was planned to make the plants pay, as peat-cutting, being seasonable work, is not itself economical, but would have been self-supporting with the projected winter processing plant. An experimental oven was already set up. The production of this plant would have greatly exceeded the requirements of solid fuel of the Waffen SS.

Plant manager was SS Unterscharfuehrer Schlimm, whose only assistant and deputy was a member of the police force. About 10 Poles were employed as supervisors.

Something like 1,000 Jews and Jewesses—their number fluctuated considerably—worked there.

In the summer of 1943 about 7000 cbm. [cubic meters] peat were cut, which was sold for approximately Zl. 265,000. The works were by no means self-supporting as during the first year considerable preparatory work had to be done and there are always unforeseen expenses connected with a new enterprise. To cover some of the cost, shares could have been issued in order to distribute the initial outlay over several years, but as the plant was closed down in November 1943, this would have been purposeless.

For the peat plant power and tool machines, rails, vehicles, and so on were bought, value.....Zl.	1,203,000.00
On closing down the plant, these items were sold at	Zl. 1,269,000.00
<hr/>	
Showing a profit of	Zl. 66,000.00
It is not improbable that the purchaser of the rolling stock may lodge a complaint on taking delivery. Against this contingency an amount of.....Zl.	108,000.00
<hr/>	
was set aside in the balance sheet of the "OSTI" leaving a loss on winding up of.....Zl.	42,000.00

The total assets of the works were sold for 29 February 1944 so that only the above-mentioned reserve was taken into the balance sheet of the chief administration.

The profit and loss account of the works shows a loss of Zl. 180,933.06 which includes the above loss resulting from the final winding up. This loss is borne by the SS and Police Leader Lublin, and balanced against the profits of the works in the district of Lublin.

3. *Brush factory in Lublin.* In May 1943 the "OSTI" installed in the labor camp in Lublin a bristle-processing works with a brush factory and a shell basket repair works. The manufacture of brushes was formerly carried out in a ghetto and transferred to the labor camp in Lublin. Altogether 31,000 kg. of bristles were processed, 370,000 brushes of every kind were manufactured and 114,000 shell baskets repaired.

The turn-over from bristle-processing was Zl. 496,000, of the brush factory Zl. 927,000, and of the basket factory Zl. 177,000, a total of approximately Zl. 1,600,000.

The over-all management of the plant was in the hands of civilian employee Strauss. Three members of the SS and two other civilian employees assisted him in the capacity of plant managers. Approximately 600 Jews were employed in the bristleworks, approximately 700 Jews in the brush factory and about 500 Jews in the basket factory.

Invested in machines, tools, and mineral equipment in these works which were mostly equipped for manual work, were only approximately Zl. 80,000.

The machines were sold after closing down of the works for approximately Zl. 75,000 so that the liquidation showed a loss of approximately Zl. 5,000.

The trading account of the brush factory shows a profit of approximately Zl. 212,000 which, after deducting the loss of the

peat works, is due to SS and Police Leader of Lublin for wages differences.

4. *The Equipments Plant in Radom.* One of the offices of the SS and Police Leader in Radom ran a plant in Radom which manufactured a variety of articles. They were mainly concerned with textiles. Uniforms were made there, and footwear, uniforms and civilian clothes repaired, but there was also a carpenter's workshop, a repairshop for shell baskets, a peat-cutting plant, and a quarry. "OSTI" took these works over on 1 July 1943.

Manager of the works was the civilian employee Seifert. Five SS and police members as well as two civilian employees assisted him. Six Poles were engaged as supervisors. Approximately 4,000 Jews were working in the labor camp of Radom.

These plants were taken over by the SS and Police Leader Radom at their book values. As these works were mainly set up for manual labor, the capital invested was comparatively small. The following was purchased:

Machines, and machine installations, and works and	
business equipment approximately	Zl. 335,000.00
Tools approximately	Zl. 30,000.00

After the workers had been withdrawn, the plants were again disposed of at book values. At book values of the "OSTI," the "German Equipment Works Ltd." took over the works at Radom and Blicyn, the "German Earth and Stone Works Ltd.," the quarry at Blicyn. There were thus no profits or losses in the transfer of these works.

A part of the plants at Radom was taken over by the town mayor there. This transfer shows a gain of about 10,000 Zlotys. The turn-over of the Equipment Works of Radom amounted to about 5,500,000 Zlotys until 31 December 1943. This yield was fully used for the costs of production, leaving no profit for the "OSTI."

* * * * *

5. *The Iron Foundry in Lublin.* When planning the main structure of the "OSTI," the main emphasis was laid on the foundry in Lublin. The Jews confined to the Lublin labor camp were to be employed here for the armament production in an iron foundry. The construction of the plant was begun in August 1943. After the burning of the Warsaw ghetto * the machines which were still serviceable, were brought to Lublin, were repaired and installed again. Machines from the Bialystok ghetto were also brought to Lublin. A very small part of the production was begun still in

* See 1061-PS, Pros, Ex. 503, p. 631.

October 1943. The main work was to commence in the middle of November.

On 3 November 1943 manufacture was stopped, the machines were sold, and the orders already booked were transferred.

The direction of the plant was in the hands of the civil employee Eduard Sauter. The books were kept by the civil employee Josef Peters. Seven members of the SS and police were in administrative positions as experts. The allocation of Jews was increased with the growth of the works. In November 1943 about 1,500 Jews were employed. Until November 1943, capital invested in the foundry amounted to around 480,000 Zlotys. By far, the greatest part of this had been taken over from the Warsaw ghetto.

The major part of the invested capital was taken over by the Lodz ghetto administration when the foundries were dissolved. Against this 300,000 Zlotys were paid to the "OSTI" by way of compensation. Other shares of the investments were sold to several buyers. When it was found that the payments to the "OSTI" on taking over were too large, the differences were again debited. I have examined the entries of the capital accounts and found these to be in order. It is not possible here to give full details of the entries of these accounts. The profit and loss accounts of the foundry do not give a complete picture of the operations of the works as they are set up as itemized cost accounts with a view to obtaining net costs. To draw up the profit and loss accounts in accordance with usual practice would entail a whole week's work.

The foundry being in its initial stages of construction could not, of course, present an actual profit. The profit of Zl. 23,661.66 shown in the profit and loss account is due to extraordinary circumstances. This profit has to be adjusted with the SS and Police Leader Lublin, on account of subsequent wage renumerations.

6. *The Fur Manufacturing Works Trawniki.* In the SS labor camp Trawniki, a big fur manufacturing plant was run by a German firm specially assigned for this. The "OSTI" took over its direction on 15 October 1943. On 15 November the financial interests of the plants were also to pass into the hands of the "OSTI." Six thousand Jews were employed in the works. The transfer of the works to the "OSTI" could not take place, however, owing to the withdrawal of the workers. Investigations were not made by the "OSTI."

7. *The Earth and Stone Works Lublin.* The Earth and Stone Works comprising a number of economic enterprises run by the SS and Police Leader Lublin, were taken over by the "OSTI" on 1 August 1943.

In detail the following are concerned:

- a. Estate Eschenhof near Lublin with attached brickworks.
- b. Lublin brickworks.
- c. Brickworks, cemented goods, and the tile factory at Zamosc.
- d. The so-called Holland business.

* * * * *

To *d.* The SS and Police Leader, Lublin established a purchasing office in Holland, which was to buy goods there which the SS and Police Leader in Lublin needed for reconstruction work in his district. This purchasing office has had a turn-over of approximately 4,000,000 Zl. The winding up of this purchasing office has given much trouble to the "OSTI" and is not as yet finished.

The Earth and Stone Works were managed by the civilian employee Karl Koebel, who was assisted by four SS and police members and two civilian employees. During the season approximately 700 Poles—no Jews—were employed in the brickworks and on the estate of the Earth and Stone Works.

* * * * *

The summary of the yields of the works combined in the Earth and Stone Works gives the following picture:

	<i>Profit</i>	<i>Loss</i>
	Zl.	Zl.
* * * * *	*	*
	238,985.43	184,218.90
On balance a profit remains of Zl.....		54,766.53
	238,985.43	238,985.43

The winding up of the Holland business can be seen from the following summary:

	<i>Zl.</i>
Purchases of goods were made to the value of.....	3,067,000.00
These goods were sold for approximately.....	2,116,000.00
	951,000.00
Balance	951,000.00
The stock of Dutch goods per 31 December 1943 amounted at cost prices to	917,000.00
Thus a loss was incurred of	34,000.00
Of the stock on 31 December 1943 a considerable depreciation of the purchased material having been ascertained, had to be written off.....	482,000.00
The total loss from the Holland business thus amounts at present to	516,000.00

A part of the depreciation of the materials was charged to the Dutch selling firm in a new account, furthermore claims for damages have been lodged. The outcome of this engagement is still in the balance; only after its definite settlement will it be possible to obtain a conclusive picture. No increase, however, of the loss stated above is expected. Furthermore it should be noted that this loss need not be borne by the "OSTI." The SS Police Leader Lublin will receive proportionately lower post-payments, for Jewish workers' wages.

8. *The Sanitary Works.* The SS Police Leader Lublin maintained in Lublin a small plant in which pharmaceutical articles of all kinds were manufactured. This also had to be taken over by the "OSTI." It was managed by the SS station [garrison] physician Dr. Seckel. Approximately 35 Jews were employed. On 31 December 1943 this works, with all assets and liabilities, was handed over to the settlers' community Zamosc at book values.

A profit of Zl. 15,000.00 was obtained on a turn-over of Zl. 194,000.00.

9. *The Main Administration.* There was a centralized book-keeping department in the main administration of the "OSTI" which dealt with its various plants and which supplied the plants with the necessary funds. On the due date for drawing up the balance sheet, the individual balances of the works were concentrated in the main administration and thus the balance sheet for the entire "OSTI" was drawn up. The main administration charged the works with a share of the administrative costs of from 0.09 to 1 percent for its work according to the amount of the turn-over tax.

Furthermore, the main administration accounted for the funds received by the "OSTI" from the utilization of machinery, tools, and goods of former Jewish property. The following should be noted in this respect: the SS and Police Leaders Lublin and Warsaw delegated to the "OSTI" the utilization of the movable former Jewish property. First, there were in the Warsaw ghetto numerous machines which were to be used in the "OSTI" enterprises. This machinery, naturally, could not be taken over by the "OSTI," it being an independent legal entity without a payment in exchange. Furthermore, there were numerous machines and also other assets which formerly were Jewish property, and had in the course of time changed hands to non-Jewish ownership, where appropriate settlement had not been paid to the Reich.

On the one hand the "OSTI" settled with the Reich for former Jewish capital it had taken over and furthermore attended to the orderly utilization of capital values transferred to non-Jewish ownership.

The firm Georg Binder in Warsaw had already before the fire in the Warsaw ghetto received orders from the SS and Police Leader Warsaw, to value the machinery which was formerly Jewish property. It would have seemed natural to use this valuation of the firm Georg Binder as a basis for the valuation of this property. This, however, was not possible because the utilization by the "OSTI" was not carried out until after the fire of the Warsaw ghetto, and because some of the machinery had suffered considerable damage in the fire. There was, therefore, no other possibility left to the "OSTI" but to carry out a fresh valuation of the machinery by their own experts.

From this utilization of former Jewish property the "OSTI" placed an amount of Zl. 14,604,865.64 at the disposal of Reich by 29 February 44. The costs thus incurred by the "OSTI" were charged up at the really extraordinarily moderate rate of three-fourths percent. These valuations, if carried out by another expert, would undoubtedly have cost the Reich much higher fees.

The moneys received by the "OSTI" out of these realizations were placed to the credit of the account "Reich" and till 31 December 1943 were adjusted with the SS Economic and Administrative Main Office Berlin and later with the SS Economist Krakow or with the Reich Commissioner for Strengthening of Germanism respectively.

On 29 February 1944 a total balance of the "OSTI" was drawn up, which I attach as enclosure 1 to my report. I attach two brief explanations regarding this balance. The enclosure 3 shows a confrontation of the expenses and the revenues of the main administration for the period from 1 March 1943 to 29 February 1944. This confrontation shows a profit amounting to Zl. 257,-558.13. On compounding the book of the individual plants, already in the final balance on 31 December 1943 some differences arise in the contra-accounts of the plants, which had to be balanced. The above computed excess of the main administration, on settling these differences, is increased by Zl. 70,756.69, total Zl. 328,-314.82.

For the purpose of a particularly cautious balancing, rather considerable reserves were set aside in the balance sheets of the Main Administration. For this purpose Zl. 129,674.75 more were used per 29 February 1944. There remains merely from the special account of the Main Administration on 29 February 1944 a profit amounting to Zl. 198,640.07.

Nothing conclusive as yet can be said about the actual result of the liquidation of the entire "OSTI," as justly the "Holland-business" is not yet wound up and in this connection no final settlement with the SS and Police Leader Lublin concerning the

outstanding payments for the workers assigned could be carried out. Moreover a part of the formed reserves can be written back again. The final calculation by the liquidator will show the necessary clarification of this point. The liquidation-opening-balance of 29 February 1944 shows a profit amounting to Zl. 780,000.00.

F. Final Remarks

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As the time I had at my disposal was insufficient to examine a comprehensive union [Komplex] such as the OSTI—the turnover from 1 April to 31 December 1943 amounted to Zl. 26,-500,000.00 in accordance with the rules of joint stock companies, I am unable to account for the balance of 29 February 1944, with the usual certificate. I did not find anything, however, which did not agree with the evidence of the books.

While making my examination, I gained the impression that the bookkeeping covers all business transactions, and that the balance of 29 February 1944 covers all the assets and liabilities of the company.

Berlin, 21 June 1944

[Signed] JOHANN SEBASTIAN FISCHER
SS Unterscharfuehrer

Enclosure 1

East Industries Ltd. (Ostindustrie G.m.b.H.)
Total balance on 29 February 1944

Assets

	<i>Main Administration and liquidated plants</i>	<i>Factory I Wolomin</i>	<i>Factory IV Radom</i>	<i>Total</i>
	<i>Zl.</i>	<i>Zl.</i>	<i>Zl.</i>	<i>Zl.</i>
Outstanding shares on stock-fund.....	150,000.00			150,000.00
Investment in plants:				
Built over real estate, factory, and other buildings.....		40,125.00		40,125.00
Machines and machin- ery installations.....			19,651.59	19,651.59
Tools, factory and busi- ness installations.....	59,281.90	344,050.35	13,301.01	416,633.26
Installations under con- struction.....		313,527.36		313,527.36
Floating capital:				
Raw materials auxiliary and operating ma- terials.....		308,053.45	47,526.89	355,580.34
Semi-manufactured goods.....		25,000.00	16,242.21	41,242.21
Manufactured goods, merchandise.....	133,463.55	281,041.00	8,217.45	422,722.00
Warehouse L.....	238,900.40			238,900.40
Warehouse R.....	91,032.10			91,032.10
Payments on account..	30,110.71	126,307.17		156,417.88
Claims resulting from deliveries and serv- ices.....	4,607,964.57		689,195.15	5,297,159.72
Cash.....	1,908.98	17,255.12	2,307.35	21,471.45
Bank balances, ZV- Dept., balances.....	453,156.56			453,156.56
Other bank balances...	790,472.77	201,945.92	24,624.05	1,017,042.74
Other claims.....	1,576.00	68,707.32	26,532.42	96,835.74
Extraordinary items:				
Transitory items.....	9,594.35			9,594.35
	6,567,461.89	1,726,012.69	847,618.12	9,141,092.70

	<i>Main Administration and liquidated plants</i>	<i>Factory I Wolomin</i>	<i>Factory IV Radom</i>	<i>Total</i>
	<i>Zl.</i>	<i>Zl.</i>	<i>Zl.</i>	<i>Zl.</i>
Stock-fund.....	200,000.00			200,000.00
Reserves.....				
Interest.....	25,000.00			25,000.00
Inmates' damages.....	342,121.38			342,121.38
Dubious claims.....	160,000.00			160,000.00
Turn-over tax Febru- ary.....	20,000.00			20,000.00
Liquidation expenses....	50,000.00			50,000.00
Insurances.....	20,000.00		8,596.60	28,596.60
Reich for salaries of members of the SS and police.....	180,000.00		50,000.00	230,000.00
Repairs water supply....	25,000.00			25,000.00
Unforeseen items.....	6,320.00			6,320.00
Deliveries of rails.....	80,743.59			80,743.59
Claim Eschenhof.....	275,000.00			275,000.00
Trade tax 1943.....	58,119.10			58,119.10
Income tax 1943.....				
Depreciation on plants..		10,542.00		10,542.00
Rent, wages, etc.....		38,770.52	4,560.00	43,330.52
Transport costs, Binder..			32,845.04	32,845.04
Salaries and other ex- penses.....			12,382.00	12,382.00
Wehrmacht Deliveries..			300,000.00	300,000.00
Delivery of goods man- ufactured by DAW [German Equipment works]			100,000.00	100,000.00
Account "Adam".....	400.00			400.00
Loan account "Reich"....	2,500,000.00			2,500,000.00
Trusteeship Account "Reich".....	1,429,196.68		95,730.00	1,524,926.68
SS and Police Leader Warsaw.....		103,595.37		103,595.37
Radom.....			1,635,764.29	1,635,764.29
Lublin.....	132,249.99			132,249.99
<i>Liabilities:</i>				
Loans.....				
Debts for deliveries and services.....	58,750.62	183,754.61	169,957.03	412,462.26
Other debts.....	20,312.54		8,188.95	28,501.49
<i>Extraordinary items:</i>				
Transitory liabilities....	21,762.06	128.14		21,890.20
Net profit 1943.....	132,389.51			132,389.51
Net profit 1944.....		348,329.52	300,583.16	648,912.68
	5,737,365.47	685,120.16	2,718,607.07	9,141,092.70

Enclosure 2

Comments on the balance of the "OSTI" of 29 February 1944

1. *Factory buildings and other buildings.* Sheds and factory fencing put up by the glassworks at Wolomin.

2. *Machines and machine installations.* Remains of the Radom Equipment Works, which have been taken over by the German Equipment Works [DAW] at the value carried on the books on 29 February 1944.

3. *Tools, factory, and business equipment.* The equipment of the main administration has been taken over by the SS garrison administration, Lublin. The equipment of the Radom works has been handed over to the German Equipment Works.

4. *Installations under construction.* Unfinished new constructions at the glassworks, Wolomin.

5. *Raw, auxiliary materials, and fuel.* The raw materials of the Radom works have been sold to the German Equipment Works on a new account.

6. *Half-finished products.* See No. 5.

7. *Finished products, goods.* The goods of the main administration are left over stocks from the Holland business. The goods of the Radom works have been sold to the German Equipment Works on a new account.

8. *Warehouse L.* Machines, etc. brought to Lodz which have been sold there on a new account.

9. *Warehouse H.* Left-over goods from the Holland business stored in Holland which will be settled there on a new account.

10. *Payments on account.* Mainly advanced sums which will be accounted for together with the Holland business.

11. *Claims for deliveries and services.* For the most part, claims for the sale of investments. Up to 20 May 1944, claims up to about Zl. 3,600,000.00 were made. The current debtors of the glass works are also included here.

12. *Other claims.* The other claims were settled after the deadline date of the balance.

13. *Transitory items.* Claims on the SS Economic and Administrative Main Office W I. Received on new account.

14. *Reserves.*

a. *Interests.* Interest on the loan of the SS Economic and Administrative Main Office for the entire period of liquidation. Cf. figure 15.

b. *Inmates damages.* Ten percent of the compensation paid to the SS and Police Leaders of Lublin and Radom, for Jewish labor.

* * * * *

15. *Loan Account "Reich"*. Loan from the SS Economic Administration Main Office according to the loan agreement of 15 September 1943. The loan was repaid on 20 May 1944 to the amount of Zl. 1,200,000.00.

16. *Trusteeship account: "Reich."* Remainder of former Jewish capital confiscated, for the Reich account. The trusteeship account was wound up in March 1944.

17. *SS and Police Leader*. Current accounts with the SS and Police Leaders regarding after payment for Jewish labor.

18. *Supply and labor debts*. Mainly current liabilities in RM [marks], which it has not yet been possible to cover because the foreign exchange permits applied for have not yet been granted.

19. *Net Profit*. The profits shown here belong to "OSTI." Profit tax still has to be deducted from the 1944 tax.

PARTIAL TRANSLATION OF DOCUMENT NO-1039
PROSECUTION EXHIBIT 384

LETTER OF HOHBERG TO POHL, 10 APRIL 1943, SUBMITTING FOR HIMMLER A SURVEY OF CAPITAL AND TURNOVER, OF ECONOMIC ENTERPRISES OF WVHA, WITH A SHORT DESCRIPTION OF THE FIRMS

Staff W - WL/Kue.

Berlin W 35, 10 April 1943
Potsdamerstrasse 95

To: SS Obergruppenfuehrer Pohl
Berlin-Lichterfelde-West
127 Unter den Eichen

Subject: Economic Enterprises of the SS Economic and Administrative Main Office.

Obergruppenfuehrer,

Enclosed please find the desired survey of the economic enterprises of the Economic and Administrative Main Office for the Reich Leader SS.

The draft is still somewhat too long to my liking.

[Signed] HOHBERG

Enclosures.

[Enclosure]

SS Main Economic and Administrative Office

Tel.: Local calls: 765261

Long distance calls: 765101

Dictation:

Staff W- WL/Kue.

Berlin, Lichterfelde-West
Unter den Eichen 126-135

To the Reich Leader SS

Berlin SW 11

Prinz-Albrecht-Str. 8

Subject: Economic Enterprises of the SS Economic and Administrative Main Office

Reich Leader,

I am again submitting for your information survey of the economic enterprises of the SS Economic and Administrative Main Office at their present state.

Staff W:

Deutsche Wirtschaftsbetriebe G.m.b.H., Berlin (DWB) [German Economic Enterprises Limited, Berlin].

Parent company of the subsidiary companies hereafter marked "T." The enterprises of the Main Office are guided from here particularly in reference to taxes and prices.

"T": *Gemeinnuetzige Wohnungs- und Heimstaetten G.m.b.H., Dachau* (Gemeinnuetzige) [Public Utility Dwellings and Homesteads Limited, Dachau].

Exclusive proprietor of real estate in accordance with the Public Utility Decree.

"T": *Haus- und Grundbesitz G.m.b.H., Berlin* (Grundbesitz) [House and Real Estate Limited, Berlin].

Founded lately for acquiring real estates for dwellings to which the Public Utility Decree does not apply.

"T": *Verkaufsstelle Berliner Moebelwerkstaetten e.G.m.b.H. i. Liqu.* (VBMW) [Sales Office of Berlin Furniture Factories Registered Limited [Liability Co.] in Liquidation].

The shares of this cooperative society were acquired only in order to obtain a big business building at 95, Potsdamerstrasse Berlin W 35 (in the meantime transferred to DWB).

"T": *Deutsche Heilmittel G.m.b.H., Prag* (Heilmittel) [German Medicines Limited, Prague].

Medicament Factory in Prague-Wissotschan, taken over by the property office of the Reich Protector during the previous year.

"T": *Ostindustrie G.m.b.H., Lublin* (OSTI) [Eastern Industry Limited, Lublin].

Newly founded company for the exploitation of the balance of Jewish property and of Jewish labor in the Government General.
Office W I (stones and earth):

"T": *Deutsche Erd- und Steinwerke G.m.b.H., Berlin* (DEST) [German Earth and Stone Works Limited].

"DEST" operates granite quarries at Mauthausen, Flossen-

buerg, Gross-Rosen, and Natzweiler; brick and clinkerworks at Oranienburg, Hamburg, Neuengamme, Grosswerder near Danzig, Hopehill near Elbing, and Berlstedt near Weimar; stoneworks at Oranienburg; gravelworks at Auschwitz. Clinkerworks are being built at Linz for utilization of the furnace clinkers from the Linz foundry of the Hermann Goering Works. In the meantime the output of the granite quarries surpassed by far the production of the brick and clinkerworks.

"T": *Porzellan-Manufaktur Allach-Muenchen G.m.b.H., Berlin* (Allach) [Porcelain Manufacture Allach-Munich, Limited, Berlin].

Workshops at Dachau and Allach. The sales branches were closed through war measures.

"T": *Bohemia Keramische Werke AG., Neurohlau* (Bohemia) [Bohemia Ceramic Works, Joint Stock Company, Neurohlau].

The output now adjusted to war purposes was essentially increased by employing prisoners.

"T": *Porag Porzellan-Radiatoren G.m.b.H., Elbogen* (Porag) [Porag Porcelain Radiators Limited, Elbogen].

The production of porcelain radiators has been postponed in favor of other articles more important during the war.

Office W II (Stones and Earth [in the] East):

"T": *Klinker-Zement G.m.b.H., Poznan* (Klinker-Zement) [Clinker Cement Limited, Poznan].

The company as lessee operates the brickworks at Bentschin and the clinkerworks at Grodkow.

"T": *Golleschauer Portland-Zement AG., Golleschau O/S* (Golleschau Portland Cement, Joint Stock Company, Golleschau, Upper Silesia].

The first cement factory in the hands of the SS (annual capacity of 200,000 tons).

"T": *Ostdeutsche Baustoffwerke G.m.b.H. Poznan* (Ostdeutsche) [Eastern German Building Material Works Limited, Poznan].

This company administers all of the approximately 350 brickworks in the East as far as the Chief of the SS Economic and Administrative Main Office is the trustee general.

"T": *Treuhandverwaltung Lemberg and Bialystok* [Trustee Administration at Lwow [Lvov] and Bialystok].

The earth and stoneworks, tile factories, lime and chalk quarries, etc., which were taken over by the trustees are operated without being entered in the commercial register.

Office W III (food concerns):

"T": *Sudetenquell G.m.b.H., Berlin* (Sudetenquell) [Sudeten Springs Limited, Berlin].

Owns wells of mineral waters at Gruen and Neudorf near Marienbad. The well at Niederselters is rented. Negotiations with the Prussian Minister of Finance on the taking over of the Fachingen well have been started.

"T": *Heinrich Mattoni AG., Giesshuebl Sauerbrunn near Karlsbad* (Mattoni) [Henry Mattoni, joint stock company].

Wells of mineral waters at Giesshuebl Sauerbrunn and Krondorf.

"T": *Freudenthaler Getraenke G.m.b.H., Freudenthal/Ostsudeten* (Freudenthal) [Freudenthal Drinks Limited, Freudenthal, Eastern Sudeten].

Manufacture of the Freudenthal beer, well-known in the Eastern Sudeten Province, and of the "Vitaborn" juices.

"T": *Lesnoplod Orava Soika a spol Dolny Kubin* (Lesnoplod).

Founded in Slovakia for large scale gathering of berry crops for "Vitaborn" juices (in the past year already 120 wagons of 10 tons each).

"T": *Deutsche Lebensmittel G.m.b.H., Berlin* (Lebensmittel) [German Foodstuffs Limited, Berlin].

It operates a bakery and a butcher's shop at Oranienburg; a bakery and a butcher's shop at Dachau; and the butcher's shop at Auschwitz.

"T": *Selchwaren- und Konservenfabrik Wolframs near Iglau* (Wolframs) [Wolframs Smoked Meat and Canned Goods Factory, Wolframs near Iglau].

One of the most up to date German meat-packing companies. *Apollinaris Betriebs- G.m.b.H., in Bad Neuenahr* [Apollinaris Limited at Bad Neuenahr].

Is being founded for operating the Apollinaris well at Bad Neuenahr, and the Rheinahr Glasfabrik G.m.b.H. [Rheinahr Glass Factory Limited] at Sinzig on Rhine which are to be rented.

Office W IV (woodworking concerns):

"T": *Deutsche Ausruestungswerke G.m.b.H., Berlin* (DAW) [German Equipment Works Limited, Berlin].

The workshops are situated at Auschwitz, Buchenwald, Dachau, Lwow, Lublin, and Sachsenhausen. Particularly armament orders.

"T": *Deutsche Edelmoebel AG., Butschowitz near Bruenn* (Edelmoebel) [German Fine Wood Furniture Joint Stock Company, Butschowitz near Brno].

Factory at Butschowitz and sales store in Prague ("Triumph" Furniture, Brenntegasse). The serial manufacture of civilian furniture to be stopped in favor of the war orders. Soon the

number of employees will be increased from 800 to 2,000 (no prisoners).

"T": *Deutsche Meisterwerkstaetten G.m.b.H., Prag* (Meisterwerkstaetten) [German Master Workshops Limited, Prague].

The concern, originally intended for the production of precious household furniture, is at present serving the war production too.

"T": *Forst- und Saegewerk Bachmanning G.m.b.H., Bachmanning* (Bachmanning) [Bachmanning Forest and Sawmill Limited, Bachmanning].

A small sawmill near Linz. During the war the company is being amalgamated with the German Equipment Works.

"T": *Deutsche Heimgestaltung G.m.b.H., Berlin* (Heimgestaltung) [German Home Furnishing Limited, Berlin].

Only after the war this company will operate on a larger scale as a sales organization fostering the German idea of furnishing a home. At present it is serving as a sales store for office furniture and furniture for SS offices and household furniture for people having suffered damage from bombings.

Office W V (agriculture, forestry, and fisheries):

"T": *Deutsche Versuchsanstalt fuer Ernaehrung und Verpflegung G.m.b.H., Berlin* (Versuchsanstalt) [German Experimental Institute for Nutrition and Alimentation Limited, Berlin].

This company, in addition to the trusteeship in the East, operates for its own account the following concerns: agriculture and peppermill at Dachau, Allenberg, Stralsund, Lauenburg, Hof; nursery and poultry farms at Ravensbrueck, Bretstein, Partschen-dorf, Freudenthal, Comthurey and Brueckentin, Gilde, Alten-eichen, Heimstatt, Autal. Besides the groups of farms at Sucha, Galicia, Beneschau, Debica, Auschwitz, and Heimstatt near Modlin are administered by trustees.

"T": *Anton Loibl G.m.b.H., Berlin* (Loibl) [Anton Loibl Limited, Berlin].

For practical reasons this company, for the exploitation of patents, is being administered by the same office. Every year it is still earning considerable funds for "Ahnenerbe" [SS "Ancestral Heritage" Research Organization] and "Lebensborn" [Well of Life].

Office W VI (utilization of textiles and leather):

"T": *Gesellschaft fuer Textil- und Lederwertung m.b.H., Ravensbrueck* (Texled) [Company for Utilization of Textiles and Leather Limited, Ravensbrueck].

For the time being it is operating only the textiles concerns at

the Ravensbrueck concentration camp for women.

Office W VII (books and pictures):

"T": *Nordlandverlag G.m.b.H., Berlin* (Nordland) [Nordland Publishing House Limited, Berlin].

This publishing house's business has been increasing unexpectedly during the past 2 years. Already its sales compare most favorably with those of big German publishing houses.

"T": *Voelkischer Kunstverlag G.m.b.H., Berlin* (Kunstverlag) [Peoples Art Publishing Company Limited, Berlin].

This company's work is limited by the war, of course.

Office W VIII (special tasks):

Gesellschaft zur Foerderung und Pflege deutscher Kulturdenkmaeler e.V. (Kulturdenkmaeler) [Association for the Development and Care of German Cultural Monuments, Reg. Assn.]

Externsteine-Stiftung, Horn in Lippe (Externsteine) [Externsteine Foundation, Horn in Lippe].

Koenig - Heinrich - Gedaechnis - Stiftung (Koenig Heinrich) [King Henry Memorial Institution] and the convalescent homes.

It is intended in the current year to incorporate the convalescent homes in a trading company to replace the losses of the homes from the other corporation's profits exempt of taxes.

Apart from the mentioned corporations and capitals, the following plants are under the supervision of the Economic and Administration Main Office.

Deutscher Reichsverein fuer Volkspflege und Siedlerhilfe e.V. [German Reich Association for People's Welfare and Settler's Support, Reg. Assn.] with the Management Property [Gueterdirektion] admont and St. Lambrecht.

Kleiderkasse der Schutzstaffel e.V. [SS Clothing Funds, Reg. Assn.] with the branch offices in Berlin, Kaiserallee and Leipziger Street, Munich, Oslo, Warsaw, Lublin, Riga, Belgrade.

Spargemeinschaft SS e.V., Berlin [SS Savings Association, Reg. Assn.].

The Chief of the SS Main Economic
and Administrative Office
Obergruppenfuehrer [Initialed] Ho

Enclosure

[Enclosure]

Capital and Turn-over of the economic enterprises of the
SS Economic Administrative Main Office

<i>Office</i>	<i>Name of the firm</i>	<i>Capital in 1000 RM</i>	<i>Percent thereof in possession of SS</i>	<i>Turnover 1942 in 1000 RM</i>
Stab W----	Deutsche Wirtschaftsbetriebe G.m.b.H. [German Economic Enterprises Ltd.]	12,000	100	239.8
Stab W----	Gemeinnuetzige Wohnungs- und Heimstaetten G.m.b.H., Dachau. [Public Utility Dwellings and Homesteads Ltd. Dachau.]	150	100	114.4
Stab W----	Haus- und Grundbesitz G.m.b.H.-- [House and Real Estate Ltd.]	300	100	Newly established.
Stab W----	Verkaufsstelle Berliner Moebel- werkstaetten e.G.m.b.H. i. Liqu. [Sales Office of Berlin fur- niture Factories Registered [Li- ability Co.] Ltd., in Liquidation].	8.5	100	53.4
Stab W----	Deutsche Heilmittel G.m.b.H. [German Medicines Ltd.]	450	100	414.6
Stab W----	Ostindustrie G.m.b.H. [Eastern Industry Ltd.]	100	100	Newly established.
I-----	Deutsche Erd- und Steinwerke G.m.b.H. [German Earth and Stone Works Ltd.]	500	100	8,203.4
I-----	Porzellan-Manufaktur Allach- Muenchen [Porcelain Manu- facture Allach-Munich.]	45	100	849.6
I-----	Bohemia Keramische Werke A.G. [Bohemia Ceramic Works Joint Stock Co.]	500	89	1,250.1
I-----	Porag Porzellan-Radia- toren G.m.b.H. [Porag Porce- lain Radiators Ltd.]	100	55	591.7
W II-----	Ostdeutsche Baustoff- werke G.m.b.H. [Eastern Ger- man Building Material Works Ltd.]	20	100	12,896.6
W II-----	Golleschauer Portland-Zement AG. [Golleschau Portland Ce- ment Joint Stock Co.]	2,100	98	2,874.0
W II-----	Klinker Zement G.m.b.H. [Clink- er Cement Ltd.]	150	100	740.4

<i>Office</i>	<i>Name of the firm</i>	<i>Capital in 1000 RM</i>	<i>Percent thereof in possession of SS</i>	<i>Turnover 1942 in 1000 RM</i>
W III.....	FreudenthalerGetraenkeG.m.b.H. [Freudenthal Drinks Ltd.]	450	100	3,973.9
W III.....	Heinrich Mattoni AG. [Henry Mattoni Joint Stock Co.]	2,100	99	7,150.4
W III.....	Sudetenquell G.m.b.H. [Sudeten Springs Ltd.]	20	100	2,453.2
W III....	Deutsche Lebensmittel G.m.b.H. [German Foodstuffs Ltd.]	200	100	4,485.9
W III....	Selchwaren- u. Konservenfabrik AG. [Smoked Meat and Can- ned Goods Factory Joint Stock Co.]	760	51	3,256.4
W III.....	Lesnoplod Orava Soika a spol Dolny Kubin.	4.3	100	909.6
W IV.....	Deutsche Ausruestungswerke G.m.b.H. [German Equip- ment Works Ltd.]	520	100	9,143.8
W IV.....	Deutsche Edelmoebel G.m.b.H. [German Fine Wood Furniture Ltd.]	1,000	94	2,883.1
W IV.....	Forst- u. Saegewerk Bachmannig G.m.b.H. [Forest and Sawmill Bachmannig Ltd.]	10	100	214.9
W IV.....	DeutscheHeimgestaltungG.m.b.H. [German Home Furnishing Ltd.]	20	100	492.0
W IV.....	Deutsche Meisterwerkstaetten G.m.b.H. [German Master Workshops Ltd.]	20	100	644.0
W V.....	Deutsche Versuchsanstalt fuer Ernaehrung u. Verpflegung G.m.b.H. [German Experi- mental Institute for Nutrition and Alimentation Ltd.]	1,555	100	2,607.5
W V.....	Anton Loibl G.m.b.H. [Anton Loibl Ltd.]	25	100	550.5
W VI.....	Gesellschaft fuer Textil- und Le- derverwertung m.b.H. Com- pany for Utilization of Textiles and Leather, Ltd.]	1,720	100	1,552.7
W VII.....	Nordland-Verlag G.m.b.H. [Nordland Publishing House Ltd.]	200	100	7,309.5
W VII.....	Voelkischer Kunstverlag G.m.b.H. [Peoples Art Publishing Co. Ltd.]	200	100	153.7
				76,009.1

Berlin, 3 August 1943

[Handwritten note] to be filed B 9/8/44

Unfinished Works of Staff W:

* * * * *

2. *Treuhandsgesellschaft-G.m.b.H.-Anteile DWB*. [Shares of Trusteeship Ltd. DWB.]

The transfer of the trusteeship to some other trustee in case of death of Obergruppenfuehrer Pohl must be stated by will. [Handwritten marginal note] Dr. Volk.

* * * * *

16. *Approval of the annual balances*. A great part of the annual balances of the DWB and the subsidiary companies have not yet been approved by the general meeting and the management was not cleared of responsibility. This must be done. [Handwritten marginal note] Done for Clinker Cement—Dr. V.

17. *Reinhardt funds*. The contract between the Reich and the DWB concerning the loan from the Reinhardt funds must be drawn up in writing.

* * * * *

32. *Minorities Bohemia*. The minorities of shareholders of the Bohemia can be eliminated by converting the Joint Stock Company into a Limited Liability Company.

[Signed] HOHBERG

6 August [19]43

TRANSLATION OF DOCUMENT NO-555
PROSECUTION EXHIBIT 451a

EXTRACT FROM BUSINESS REPORT OF GERMAN EQUIPMENT WORKS
LTD. (DAW) FOR 1943 CO-SIGNED BY OPPERBECK AND NIEMANN,
MARCH 1944

Business report of German Equipment Works, Ltd. Berlin-
Wannsee, Dreilindenstrasse, for the year 1943

Executive officers of the companies:

1. Josef Opperbeck Plenipotentiary General.

2. Karl Niemann Manager.

Karl Bestle Manager.

3. Walter Reinartz Prokurist [Executive with power
of attorney] for the entire ad-
ministration.

Franz Mueller-Strobl Prokurist for the entire adminis-
tration.

Rudolf Wagner Prokurist for Auschwitz Works.

In 1943 the company owned the following plants:

1. Auschwitz Plant.

2. Bachmanning Plant.
3. Buchenwald Plant.
4. Dachau Plant.
5. Fuerstenwalde Plant.
6. Lwow [Lvov] Plant.
7. Lublin Plant.
8. Neuengamme Plant.
9. Ravensbrueck Plant.
10. Sachsenhausen Plant.
11. Sword-forge Dachau Plant.
12. Stutthof Plant.

In 1943, the business was furthermore expanded by the taking over of—

1. The Neuengamme plant near Hamburg.
2. The Pulawy Sawmill near Lublin.
3. Forestry and Sawmill Plant Ltd. Bachmanning.

Neuengamme is a wood processing plant which still awaits development. At present machine-gun carrying straps, ships bumpers, and camouflage nets are manufactured from cellophane, scrap rubber, and remnants from the textile industry on a large scale.

In June 1943 the sawmill adjoining Pulawy station was acquired. The average contingent is about 20,000 cubic meters per year. The plant meets all demands as for site, output, and equipment and is, in the first place, intended to provide the Lublin Works with the necessary cut wood. About 15,000 cubic meters of logs were taken over. The Bachmanning Forestry and Sawmill plant turns out about 5,000 cubic meters of cut wood per year.

The production of all these plants is characterized by the fact that they are engaged exclusively in armament contracts and essential war work ordered by public authorities for the completion of special war tasks.

The conversion and coordinated replanning of production for the manufacture of serial goods, that had become necessary in order to execute the War Industry contracts, necessitated also the acquisition of a number of new machines and equipment and the construction of new buildings.

In 1943 [funds] were spent on the execution of building planings RM 1,278,958.92; on purchase of machines and plant installations RM 969,386.46; on purchase of tools and equipment for plants RM 590,430.11.

With an average figure of workers of 318 employees, 167 civilian workmen, and 15,498 prisoners; and with a performance of 40 million working hours a turn-over was obtained of 23,204,032.87 RM.

The working time comprises 32,256,500 working hours (spent on productive work)—80.6 percent and 7,743,500 working hours (auxiliary work)—19.4 per cent.

The turn-over amounted to RM 5,366,547.00 (100 percent) in 1941; RM 9,540,219.33 (177.8 percent) in 1942; and RM 23,204,032.87 (432.4 percent) in 1943.

Thus the 1943 turn-over increased by 243.2 percent compared to 1942 and by 432.4 percent compared to 1941.

The large increase in the turn-over, compared to the previous years, is due above all to the introduction of shift work wherever working conditions would allow it. The turn-over figure of 23,204,032.87 RM does not comprise the value of the half-manufactured and manufactured articles, which amount as at 31 December 1943, to RM 2,393,560.49.

The figure of the turn-over, besides, is greatly influenced by the special action carried through in the Lublin and Lvov Plants at the beginning of November 1943, which brought these plants to a complete standstill. A turn-over of about 2,000,000.00 RM was lost through the closing-down of these works and the ensuing loss of about 8,000 workers for the months of November and December.

* * * * *

Berlin, March 1944

DEUTSCHE AUSRUESTUNGSWERKE G.M.B.H.

[Signed] OPPERBECK

[Signed] NIEMANN

TRANSLATION OF DOCUMENT NO-063
PROSECUTION EXHIBIT 450a

TWO MEMORANDA BY GLOBOCNIK DESIGNATED AS "ENCLOSURES": (a) ORDERS ON HAND OF THE LABOR CAMPS IN THE LUBLIN DISTRICT AS OF 3 NOVEMBER 1943; (b) PROVISIONAL REPORT OF THE CASH OPERATION "REINHARDT," AS OF 15 DECEMBER 1943

Enclosure 1

Orders on Hand

Of the Shops of the SS Labor Camp in the District of Lublin
on 3 November 1943

I. Total orders on hand according to shops.

1. Ostindustrie G.m.b.H., Lublin [Eastern Industry Ltd., Lublin]	Zl. 5,552,700.00 [see] Annex 1
2. Deutsche Ausruestungswerke, Werke Lublin [German Equipment Works Plant Lublin]...	Zl. 7,989,000.00 [see] Annex 2
3. Textilwerk [Textile Works] Poniatowa	Zl. 13,000,000.00 [see] Annex 3
4. Pelzwerk [Fur Works] Trawniki	Zl. 4,536,000.00 [see] Annex 4

Zl. 31,077,700.00 ¹

II. These total orders on hand fall in the following production groups:

1. Wood	Zl. 5,728,000.00
2. Metal	Zl. 4,171,000.00
3. Textiles	Zl. 10,338,200.00
4. Leather	Zl. 1,970,000.00
5. Furs	Zl. 4,816,000.00
6. Others ²	Zl. 4,054,500.00

Zl. 31,077,700.00

¹ Since these were almost exclusively orders for the processing of goods supplied to us, these orders on hand represent mainly wages and overhead expenses. The real value of the manufacture, if produced on our own account, that is if we ourselves supply the material, would therefore have been at least 50 percent higher.

² Under other production groups [sonstige Fertigungsgruppen] are combined, among others, production of peat and/or generator coke; the only roofing-paper factory in the Lublin district; two watch repair shops; one brush factory; the largest bristle-processing plant of the Government General; basket- and straw-weaving plants; printing shop; production of concrete parts for the construction of barracks.

[Signed] GLOBOCNIK

Annez 1. Orders on hand of the Ostindustrie G.m.b.H., Lublin, on 3 November 1943

<i>Plant</i>	<i>Contracts</i>	<i>Contractor</i>	<i>Total value Zl.</i>	<i>Wehrmacht contracts included Zl.</i>	<i>Civilian contracts included Zl.</i>
II Peat Pit Dorohuczka..	1. 420 t Peat-coke..... 2. 4.5 t Tar.....	Waffen SS..... DAW.....	210,000.00 4,500.00	210,000.00	4,500.00
III Brushfactory, bristle- processing plant, and willow-weav- ing plant.	1. 724,000 paint brushes and scrubbing brushes, assorted. 2. Repair of 135,000 shell baskets. 3. 15,000 kg. bristles for processing.	WBA, Berlin HWL II of the Waffen SS and others. Munition Depot Lublin..... Various contracts for Wehr- macht and private.	1,592,000.00 216,000.00 210,000.00	1,392,000.00 216,000.00 105,000.00	200,000.00 105,000.00
V Mechanical and other shops in Lublin.	1. Production of 1½ million fuse screws. 2. Production of 4.5 million buckles. 3. Repair of 37,500 tin containers. 4. Dismantling of 3,000 airplane gun mounts. 5. Repair of 15,000 Automobile parts. 6. Repair of approximately 3,000 watches and various other repairs. 7. Production of 18,000 pc. of military equipment.	Wehrmacht (Planning Office [Planungsring]). Cossack Division (WM) and others. Munition Depot Lublin..... Luftwaffe (Planning Office)..... HKP Lublin [Army motor pool]. WM and civilian firms..... Firm of Kienle Stuttgart for WM.	1,350,000.00 1,620,000.00 150,000.00 40,000.00 75,000.00 60,000.00 25,200.00	1,350,000.00 1,620,000.00 150,000.00 40,000.00 75,000.00 15,000.00 25,200.00	45,000.00
			5,552,700.00	5,198,200.00	354,500.00

The above figures include, apart from the current orders for permanent contracts, merely the figures for 3 months.

Annex 2

Orders on Hand

of the Deutsche Ausruestungswerke—Lublin Plant
on 3 November 1943

<i>Production group</i>	<i>Total value Zl.</i>	<i>Wehrmacht contracts included Zl.</i>	<i>Civilian contracts included Zl.</i>
Wood.....	5,728,000.00	3,899,200.00	1,828,800.00
Metal.....	151,000.00	130,000.00	21,000.00
Textile.....	28,000.00	14,000.00	14,000.00
Leather.....	660,000.00	570,000.00	90,000.00
Others.....	1,422,000.00	162,000.00	1,260,000.00
	7,989,000.00	4,775,200.00	3,213,800.00

Note. The above figures include, apart from the current orders for permanent contracts, merely the figures for three months.

The Deutsche Ausruestungswerke were the best equipped plants.

Forty-one Aryan supervisors directed 5,445 Jewish laborers, who in the first 10 months of 1943 performed 1,115,000 work days with a balance of cash on hand and in the bank of 31,000,000 Zlotys.

Wood processing was in the foreground with a lumber turnover of 7,600 square meters. Shoe production had also increased to 337,250 pairs, and should be further increased to 450,000 pairs by the newly added repair shop. 331,770 square meters of roofing paper were produced during that time.

The wood processing should have been expanded considerably by the purchase of our own sawmill and the byproducts utilized, such as the production of fuel wood [Tankholz] and charcoal distillation, whereby the resulting tar products could be utilized again for the production of roofing paper.

A further considerable production was the manufacture of 2,500 tents for the Finns, and the monthly repair of 25,000 tin containers.

71,000 knapsacks and field bags were also repaired, 5,000 pieces of optical instruments were dismantled, and 1,270 motor cars repaired.

The potential production in 1944:

Timber cutting	20,000 cu. meters
Production of housing equipment.....	15,000 pc.
Doors, windows, shelves.....	20,000 pc.
Tents for the Finns.....	5,000 pc.

Repair of tin containers.....	250,000	pc.
Wooden soles	6,000	pc.
Brush handles	4,800,000	pc.
Fuel wood [Tankholz].....	20,000	cu. meters
Charcoal	4,500	kg.
Roofing paper	2,000,000	sq. meters

The capacity can best be indicated by the fact that 312 work cooperatives of the artisans in the Government General had not even doubled the turn-over of the DAW alone.

Eighty-three percent of the contracts were for the Wehrmacht and seventeen percent for civilians.

Annex 3

Orders on hand of the textile plant Poniatowa on 3 November 1943

<i>Production group</i>	<i>Contracts</i>	<i>Contractor</i>	<i>Total value Zl.</i>	<i>Wehrmacht contracts included Zl.</i>	<i>Civilian contracts included Zl.</i>
Textile contracts.....	New production and repair of 1,531,000 articles of clothing of all kinds.	Mainly Wehrmacht, HB Ae. [Army Procurement Offices] Warsaw and Poznan and WBA Berlin and civilian firms.	10,285,000.00	7,200,000.00	3,085,000.00
Fur garments.....	Production of 28,100 fur garments of various kinds.	Wehrmacht.....	280,000.00	280,000.00	-----
Leather products.....	Production of 132,000 pieces or pairs of leather products of various kinds.	Wehrmacht.....	1,310,000.00	1,310,000.00	-----
Iron contracts.....	Production of nuts.....	Arbeitsring D—OKH.....	725,000.00	725,000.00	-----
Concrete construction.....	Production of 20,200 [sic] concrete barracks.	Armament Ministry Speer (Arm. Constr.).	400,000.00	400,000.00	-----
			13,000,000.00	9,915,000.00	3,085,000.00

Note.—The above figures include, apart from the current orders for permanent contracts, merely the figures for 3 months.

Annex 4

Orders on hand of the Fur Works Trawniki on 3 November 1943

<i>Production group</i>	<i>Contracts</i>	<i>Contractor</i>	<i>Total value Zl.</i>	<i>Wehrmacht contracts included Zl.</i>
Fur and winter garments.	Production and repair of approx. 600,000 fur and other winter garments "from fur gloves to fur coats and camouflage suits."	Mainly Wehrmacht HBae. (Army Procurement Offices) Koenigsberg, Warsaw, Poznan Stettin.	4,536,000.00	4,536,000.00
			4,536,000.00	4,536,000.00

Note.—The above figures include, apart from the current orders for permanent contracts, merely the figures for 3 months.

Enclosure 2

Provisional Financial Report of the Cash Operation

"Reinhardt" Lublin

as of 15 December 1943

Through operation "Reinhardt" Lublin the greater German Reich received in the period from 1 April 1942 to 15 December 1943, inclusive, the following currency and goods:

Cash:

Receipts

	RM
Cash	17,470,796.66
To Reich Bank Berlin RM bills and coins....	3,979,523.50
To Reich Bank Berlin Zloty bills and coins....	5,000,461.00
To SS Economist, Krakow.....	50,416,181.37
Loans to SS economic enterprises.....	8,918,878.35
Receipts from Title 21/E.....	656,062.40
	85,741,903.28

Disbursements

	RM
Personal expenditures, Title 21/7a.....	96,207.28
General expenditures (approx. 40% of which for transports of Jews Title 21/7b).....	11,765,552.62
Counterfeit money (Zloty bills).....	28,062.64
	11,889,822.54

RM 11,889,822.54

Summary:

ReceiptsRM 85,741,903.28
DisbursementsRM 11,889,822.54
Net ProfitRM 73,852,080.74

RM 85,741,903.28 RM 85,741,903.28

TRANSLATION OF DOCUMENT NO-1036
PROSECUTION EXHIBIT 66

LETTER BY DEFENDANT BAIER, 19 JANUARY 1944, INFORMING OFFICE W IV OF WVHA OF CONVERSION OF LABOR CAMPS IN GOVERNMENT GENERAL INTO CONCENTRATION CAMPS, AND ESTABLISHMENT OF A CENTRAL ADMINISTRATION OF THE DAW AT KRAKOW; MEMORANDUM, 13 JANUARY 1944, ON SAME SUBJECT

Berlin, 19 January 1944

Staff W

WR-Dr. Hf/Ca.

To Chief of Office W IV

Berlin-Wannsee, Dreilindenstr.

Subject: Conversion into concentration camps of forced labor camps at Krakow-Placzow, Lvov, Lublin, and Radom-Blizyn.

Reference: Your memo dated 13 January 1944.

The Obergruppenfuehrer has approved the changes in organization of the German Equipment Works Ltd. [Deutsche Ausruestungswerke G.m.b.H.] resulting from the conversion of the above-mentioned forced labor camps into concentration camps. Thus the Central Administration of the German Equipment Works Ltd. for the Government General can establish itself at Krakow, and SS Obersturmfuehrer Mohwinkel be appointed head of the Central Administration. Will you please keep me informed of the start and working progress of the new Central Administration.

Chief W

[Initialled] B [Baier]

SS Oberfuehrer

Berlin, 13 January 1944

Op—Kp

[Marginal note] O.K.

[Initialled] P/14

Memo

By agreement between the Main Office Chief, SS Obergruppen-

fuehrer Pohl, and SS Obergruppenfuehrer Koppe, Higher SS and Police Leader at Krakow, all forced labor camps at Krakow-Placzow, Lvov, Lublin, and Radom-Blizyn, established by the local SS and Police Leaders, are to be converted into concentration camps.

Between 6 and 11 January 1944, to ascertain the details involved, discussions were held by SS Obersturmbannfuehrer Maurer and the undersigned with—

1. The Higher SS and Police Leader, Krakow,
SS Obergruppenfuehrer Koppe.
2. The SS and Police Leader, Krakow,
SS Oberfuehrer Scherner.
3. The SS and Police Leader, Lvov,
SS Brigadefuehrer Thier.
4. The SS and Police Officer of Lublin District
SS Gruppenfuehrer Sporrenberg.
5. The SS and Police Officer, Radom,
SS Oberfuehrer Dr. Boettcher.

On these discussions the following terms were agreed upon:

1. *The Krakow-Placzow Works.* Effective 11 January 1944, the forced labor camp Krakow-Placzow will be taken over as a concentration camp. The shops in this camp, hitherto operated by the Higher SS and Police Leader Krakow, will be taken over, effective as of the same date, by office W IV (German Equipment Works Ltd.). The shops will be named "Deutsche Ausruestungswerke G.m.b.H. Werk Krakau." ["German Equipment Works Ltd. Plant Krakow"]. SS Obersturmfuehrer Mohwinkel was charged with the commissary management of this plant. The factory maintains a—

- a. Printing shop, to be enlarged, by request of the Higher SS and Police Leader, so as to serve as a secret printing shop for the Government General.

- b. Textile factory.

- c. Cobblery.

- d. Locksmith workshop.

- e. Joinder's and carpenter's shop for repairs.

At present some 4,000 Jews are being employed, who in the majority can be regarded as skilled laborers.

In the course of coordinating all German Equipment Works [DAW] plants in the Government General it was decided on the spot forthwith to move to Krakow the printing shop and textile factories hitherto operated at Lvov. Part of the Lublin Works' printing shop will also be moved to Krakow.

All offices and technical personnel as yet at Krakow and attached to the Higher SS and Police Leader will be taken over by

the German Equipment Works. For the time being SS Untersturmfuehrer (F) Neuschel is in charge of management of the works. For the purpose of setting up the accounting system on uniform lines, auditor [Revisor] Rohlf's has temporarily been detailed to Krakow, there to effect an immediate introduction of the Lublin system.

In addition, three foremen from the Lvov Works have also been detailed to set up the printing shop and the textile shops.

2. *The Lvov Works.* The Lvov Works of the German Equipment Works will shortly resume production. By agreement with Division [Amtsgruppe] D, prisoners held in Germany will be transferred to Lvov. The necessary cadre numbering some 250 men will forthwith be detailed for the German Equipment Works from the plants at Sachsenhausen, Buchenwald, and Dachau. At Lvov production will be mainly concerned with iron and wood work.

The textile shops, the cobblery, and the printing shop will be closed down and moved to Krakow. The premises thus made available will be adapted to production vital to the war effort (probably Siemens & Halske). To this end, Division D will provide female labor from camps in Germany.

The SS and Police Leaders forced labor camp will be converted into a concentration camp. Arrangements for accommodating prisoners from Germany have been made locally by SS Sturmbannfuehrer Weiss, the Lublin camp commander.

3. *The Lublin Works.* Plant I at Lindenstrasse will resume production immediately. For this purpose 250 skilled men from the German Equipment Works plants at Dachau, Sachsenhausen, and Buchenwald will be transferred to form the cadre. Further labor up to a maximum number of 1,500 men will by and by be transferred to Lublin by Division D.

Wood and ironwork will be mainly undertaken at the Lublin Works.

The printing shop will be maintained on a smaller scale to meet local requirements.

The commander of the concentration camp at Lublin has made available for the German Equipment Works huts and prisoners. In these shops shell baskets will be repaired and a cobblery set up.

4. *The Radom Works.* The forced labor camps at Radom and Blizyn of the SS and Police Leader will be converted into a branch labor camp of the concentration camp at Lublin after the proper security measures have been taken. The shops hitherto maintained in these labor camps by the Osti G.m.b.H. are at present being closed down and in part transferred to the German Equipment Works.

The printing shop at Radom, run by OSTI, will be taken over by the German Equipment Works effective 1 February 1944.

The textile shops will be liquidated by OSTI. The labor thus available will either be moved to Blizyn or placed at the disposal of the local armament industry.

5. *The Blizyn Works.* The forced labor camp of the SS and Police Leader will be converted into a branch labor camp of the concentration camp at Lublin. All existing OSTI shops will be taken over by the German Equipment Works on 1 February 1944.

In the future the plant will be occupied mainly with woodwork due to be extended considerably. Conditions are extremely favorable for this purpose, since the works are situated right in the center of a timber district with large sawmills close at hand.

The textile shops and the cobblery maintained at Blizyn will also be taken over by the German Equipment Works.

Business management of the Radom and Blizyn Works will be merged into a joint establishment named "Deutsche Ausruestungswerke G.m.b.H., Werk Radom-Blizyn" [German Equipment Works Ltd. Plant Radom-Blizyn], with offices at Radom. The OSTI staff will be taken over by the German Equipment Works.

A civilian employee, Seifert, will be in charge of works management.

For the time being SS Obersturmfuehrer Mohwinkel has been appointed works supervisor with orders to see that the changes in organization are carried out as rapidly as possible.

By request of SS Obergruppenfuehrer Koppe, Higher SS and Police Leader Krakow, as well as the local police officers, community shops will be set up in all German Equipment Works plants in the Government General, such as cobblers' and tailors' shops. The personnel of the individual community shops is not to exceed 50 to 100 workmen, according to the size of the community. Since no shops of this kind are available locally, it was necessary to arrange for such facilities. Generally speaking, the community shops are only permitted to carry out work for the families of members of the SS and Police forces. All jobs done in these shops must be charged at cost price without any profit whatever.

The undersigned has given a binding undertaking to that effect towards both the Higher SS and Police Leader and the local SS and Police Leaders.

"Deutsche Ausruestungswerke G.m.b.H."—(German Equipment Works Ltd.)—Central Administration for the Government General, Krakow.

Now that the German Equipment Works [DAW] have at their disposal within the Government General five plants, it becomes necessary to set up a separate central administration, to allow

for particular conditions obtaining in the Government General as well as for reasons of foreign exchange. The tasks of this central administration will include the directing of armaments orders in close cooperation with the Armament Inspection authorities, dealings in all matters concerning quotas, and continuous supervision and checking, both commercially and technically, of the plants concerned.

The central administration offices are at Krakow. Some rooms in his office premises will be made available by the SS Economist [SS Wirtschaftler].

SS Obersturmfuehrer Mohwinkel is herewith appointed head of the central administration.

A civilian employee, Leclercq, will be transferred to Krakow to attend to the business and auditing side of the job.

[Signed] OPPERBECK
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT HOHBERG 73
HOHBERG DEFENSE EXHIBIT 70

AFFIDAVIT OF MARTIN LOEFFLER, 2 AUGUST 1947, CONCERNING
ACQUISITION OF FACTORY OF D. DRUCKER A. G. BY WVHA

Dr. Martin Loeffler,	(14a) Stuttgart-S
Attorney at the District Court, and	2 August 1947
District Court of Appeals (Land- und	Charlottenstrasse 23
Oberlandesgericht) Stuttgart,	
Tax expert	

AFFIDAVIT

I, Dr. Martin Loeffler, born on 25 January 1905 at Bad Cannstatt, residing at Stuttgart-S., 23 Charlottenstr., after being warned that I render myself liable to punishment by giving a false affidavit, state and declare that my statement in lieu of oath is true and that my deposition is to be submitted as evidence to the Military Court II in case 4, at the Palace of Justice, Nuernberg, Germany, state the following:

1. Dr. Kurt May acquired possession of the firm D. Drucker, steam sawmill and furniture factories A.G. [joint stock company], Bruenn [Brno], in April 1939 by buying up the very high bank debts of the almost bankrupt enterprise. He acquired the enterprise in a perfectly fair commercial manner. He succeeded in bringing about the emigration of the Jewish owner to New Zealand including ample baggage.

2. Dr. May was arrested by the SS on 3 July 1942. He supposed

that the arrest took place at the instigation of Pohl, because during his imprisonment which lasted until 23 April 1943 he was compelled to alienate the factory Drucker A.G. to the SS Economic and Administrative Main Office at a ridiculously low sham price. Even this sham price was not paid later. Damage caused: about 1,2 million Reichsmarks.

3. Dr. Hohberg always interceded in this affair for the rights of Dr. May and tried to work against this serious violation of the law. Above facts are known to me as Dr. May's counsel for the defense in his proceedings against the SS.
Stuttgart, 2 August 1947

Attorney
[Signed] M. LOEFFLER

TRANSLATION OF DOCUMENT HOHBERG 74
HOHBERG DEFENSE EXHIBIT 71

AFFIDAVIT OF KONRAD HEIDENREICH, 4 AUGUST 1947, CONCERN-
ING ACQUISITION OF FACTORY OF D. DRUCKER A. G. BY WVHA

Konrad Heidenreich
Stuttgart—O
22 Haussmannstrasse

Residence: Stuttgart—S
16 Alte Weinsteige

AFFIDAVIT

I, Konrad Heidenreich, born on 25 May 1882 at Dettler/Unterfranken, residing at Stuttgart—O, 16 Alte Weinsteige, after first having been warned that I render myself liable to punishment by giving a false affidavit, state and declare that my statement in lieu of oath is true and that my declaration is to be submitted as evidence to the Military Tribunal II in case 4, Palace of Justice at Nuernberg, Germany, the following:

I am the father-in-law of Dr. Kurt May who was arrested in 1942. Based on the reports which my son-in-law gave me, I am well-informed about the connections of the "Case May."

From my son-in-law I know that his arrest had taken place at the instigation of Pohl by General Nebe in July 1942, that he was imprisoned without reason for about a year, and had then been excluded from the SS.

My son-in-law Dr. May was owner of the furniture factory D. Drucker AG. [joint stock company] at Butschowitz. He had regularly acquired this factory by buying the shares from the Jewish Mr. Drucker through the Boehmische [Bohemian] Excompte Bank. He helped the seller, Mr. Drucker, to emigrate.

During his arrest, Dr. May was compelled by SS Leaders of

the Economic and Administrative Main Office to transfer the Drucker AG. shares to the Economic and Administrative Main Office—by means of contract—at the nominal value, while the effective market value was more than 250 percent. In particular, Schmidt-Klewenov, Dr. Volk, and Dr. Hoffmann had come to see Dr. May in prison, and conducted the negotiations about the sale. Dr. Hohberg had neither been informed, nor invited to take part. The contract was concluded by Dr. May only because he had been given hope of being released. By these and other intrigues Dr. May was cheated out of at least a million Reichsmarks by Pohl and his accomplices.

The SS Leaders of the Economic and Administrative Main Office who had taken part in these objectionable affairs were afraid since that time, that they might be called to account by Dr. May and his friend, Dr. Hohberg. For this reason, an enormous agitation also against Hohberg was then started in the Economic and Administrative Main Office with a view to eliminating him politically.

[Signed] KONRAD HEIDENREICH

For attestation of above signature.
Hindelang, 4 August 1947

Local Police Station
[Signature illegible]

Seal
Market town of Hindelang

TRANSLATION OF DOCUMENT KLEIN 9
KLEIN DEFENSE EXHIBIT 9

CERTIFICATE OF ARCHIEPISCOPAL OFFICE OF THE VICAR-GENERAL
IN PADERBORN, 21 MARCH 1947, CONCERNING KLEIN'S NEGOTIATIONS FOR ACQUISITION OF CHURCH PROPERTY FOR CONCENTRATION CAMP WEWELSBURG

Archiepiscopal Office of the Vicar-General
Diary No. 1877/47

(21) Paderborn, 21 March 1947
P. O. Box 186

Certification

As the church of Wewelsburg, the parsonage, and the convent of the Catholic parish were in the immediate vicinity of the castle, the Reich Leadership of the SS in the year 1939 urged the acquisition of the properties to round out the estate of the castle, and to have in return new buildings erected at another part of the place within the parish.

As the danger of expropriation was to be considered and as the vicinity of the castle might also disturb the church, the archiepiscopal authority in Paderborn advised to come to an agreement.

The above-mentioned real estate became the property of the "Association for the Development and Care of German Cultural Monuments, Reg. Assn., Berlin SW 68, (Wilhelmstrasse 28)" at the price of 191,000 RM, on the basis of a contract signed on 4 July 1939, the money being guaranteed by the Dresdner Bank in Berlin. The purchaser, that is the SS, agreed to render the parish any possible assistance in the procurement of building material and the construction of the buildings. The project was not carried out on account of the war.

The *economic* negotiations with the parish and the archiepiscopal authority were conducted by Horst Klein, at that time SS Obersturmbannfuehrer, who was sent from Berlin for this purpose. He had nothing to do with the management of the castle.

We certify in accordance with the truth, that during these negotiations Herr Klein conducted himself absolutely loyally and did not exercise any undue pressure on the opposite party.

The result of the contract was considered satisfactory by the late Archbishop Dr. Caspar Klein and the office of the Vicar-General. The execution of the plan would not have meant any harm to the parish of Wewelsburg from an *economic point of view*, even if for different reasons they would have rather kept their old place of worship.

Archiepiscopal Office of the Vicar-General

LS

[Signed] DR. RINTELEN

Vicar-General

TRANSLATION OF DOCUMENT KLEIN 10
KLEIN DEFENSE EXHIBIT 10

LETTER FROM SS BUILDING OFFICE WEWELSBURG, 20 JUNE 1939,
CONTAINING HIMMLER'S DIRECTIVES ON ACQUISITION OF
CHURCH PROPERTY

Copy

Construction Management
SS School,
House Wewelsburg
To the Association for the Development and
Care of German Cultural Monuments, Reg. Assn.
Berlin SW 68
Wilhelmstr. 28

20 June

Acquisition of the Wewelsburg church without
B/Pr/Df. Construction Management
Opinion of the Reich Leader SS

I inform you hereby that the Reich Leader SS visited the Wewelsburg on Saturday, 17 June 1939. I discussed the purchase of the church in detail with him under consideration of the counter-proposal on the part of the Wewelsburg Catholic parish.

Before you inform the other party of the contract of your opinion, please consider thoroughly the view of the Reich Leader SS:

The Reich Leader SS does not want to enter directly into the counterproposals of the priest of Wewelsburg. He desires that we acquire first of all those parts belonging to the state, i.e., the parsonage and the parish garden as well as the deaconess' home, so that the priest lives in a house belonging to the SS. By means of negotiations with the burgomaster of Bueren, the Landrat [county councillor] and the Minden authorities, the purchase ought to render this possible.

The church should not be acquired for the time being. But one should try, whether a possibility could be found to bring about an expropriation on the strength of the law concerning town-planning and road construction.

The Reich Leader SS again emphasized expressly that, if a purchase should take place anyhow, he would appropriate not a penny more than 200,000 marks.

I will have introductory discussions concerning this new situation with the burgomaster, the Landrat, and the Minden authorities. I shall inform you of the result, i.e., whether the suggestion of the Reich Leader is feasible or not.

Heil Hitler!

[Signed] B

SS Sturmbannfuehrer

Regional Construction Chief

[Landesbaumeister]

[Initial illegible]

EXTRACTS FROM TESTIMONY OF DEFENDANT GEORG LOERNER *

DIRECT EXAMINATION

* * * * *

DR. HAENSEL (counsel for defendant Georg Loerner): We were just talking about the DWB. How did you participate in the

* Complete testimony is recorded in mimeographed transcript, 17-20 June, 4 September 1947; pp. 2916-3151; 7423-7424.

establishment of the DWB? Were you ordered to establish a DWB, or how was it?

DEFENDANT GEORG LOERNER: In May 1940 I was called to see Pohl, who told me that it was necessary to create a holding company for the various economic enterprises. As the G.m.b.H. law prescribes that at least two people belonging to the company are necessary in order to establish the G.m.b.H., he had nominated me as second manager in charge, he was to bring along a capital of RM 100,000 and I was to bring along RM 10,000. He told me that immediately after the establishment I would have to retransfer the capital to him so that he alone would be the manager-in-charge. In other words, he gave RM 100,000 or RM 90,000, and I gave 10,000—a total of RM 100,000. This was an order and I carried it out.

Q. That particular item of RM 10,000 which you took over, did you pay that?

A. No. I did not. I just acted as trustee, and I never did see the money.

Q. Apart from the word "trustee," we have a different name.

A. You mean "dummy."

Q. Did you have any views or any results in that particular participation?

A. No.

Q. Later on—and when was it actually that you formally became the second manager-in-charge?

A. That was in July 1941 when I became second manager-in-charge. After the establishment and after I had transferred my part to Pohl immediately after the establishment, I did not have anything to do with the DWB.

Q. Did you ever consider why Pohl actually needed a second manager-in-charge? After all, he was the only one who had the right of signature.

A. I never did have any misgivings about that, and Pohl himself told me what the reasons were. He told me that the whole thing was a formal matter and that only in a particular case—if he should have an accident and no longer be able to manage the concern—that that was the only reason he wanted to have a man who was to manage the business until Himmler would designate a new representative.

Q. If that particular case had really occurred—that is to say, if Pohl had had an accident or something—you would have become the first manager of the DWB?

A. I don't think that, because I do not believe that the Reich Leader would have assigned me to that task.

Q. Did you ever hear any statements from Pohl about the

future plans which the enterprises had and his own future plans, as far as the enterprises after the war were concerned?

A. Yes. He wanted to withdraw those economic enterprises from the WVHA and take over. He told me at the time that he would then leave the administration of the troops to Frank and me, and that he would deal only with economic questions.

Q. I imagine that that was a large plan of Pohl's—to become a manager of a concern after the war?

A. Yes.

Q. Was that your idea also? That is, to join the private economy?

A. No. I never had that intention. If so, I wanted to withdraw from the active service and take up gardening somewhere.

* * * * *

Q. * * * I shall like to enter on the second part of your economic activities. Did you handle any legal connections with this to avoid, to keep economic enterprises from the SS complex, and, if so, what kind and what nature were they? I mean by that the formal participation in establishments, membership in supervisory boards, etc.

A. Yes, I did participate in such participations. When I came to Nuernberg I really didn't know in what establishments I really participated. However, I understood from the documents that I participated in the Gemeinnuetzige Wohnungs- und Heimstaetten G.m.b.H. [Cooperative House and Home Building Ltd.]; I think I was in the supervisory board there; and that I participated in the establishment of the company for utilization of Textiles and Leather Ltd.; and also that I participated in the establishment of Eastern Industry [OSTI], that I was also a member of the supervisory board of the OSTI; and that it could also be possible that I participated in the establishment of several other companies. However, I can't recall any of them specifically.

* * * * *

EXTRACTS FROM TESTIMONY OF DEFENDANT POHL *

DIRECT EXAMINATION

* * * * *

DR. SEIDL (counsel for defendant Pohl): The next document which I wish you to look at is Document NO-1270, which is Prosecution Exhibit 61, document book 3, page 73, of the German version, and in the English text on page 66. At the end of this

* Complete testimony is recorded in mimeographed transcript, 16, 19-23, 27-29 May, 2, 3 June, 25 August 1947; pp. 1253-2040; 6759-6786.

document there is a file note of a conference concerning the OSTI, which had taken place on 13 February 1943 and in which you took part, as did SS Brigadefuehrer Loerner, SS Hauptsturmfuehrer Dr. Volk, SS Obersturmfuehrer Dr. Horn, and Dr. Hohberg. What was the subject matter of that conference, and what are your explanations to this document? I wish to call your attention to the second last paragraph of the file note, where it says the following:

“With regard to the question whether the Jewish properties were to be taken over under trusteeship or *de facto*, the SS Obergruppenfuehrer's standpoint was that the machinery and other equipment required by the OSTI must be acquired from the Reich Ministry of Economics. It follows, therefore, that the capital of the OSTI must be considerably extended.”

Before you answer my question, I must point out to you that later on we shall deal with the whole complex of the OSTI in all details. We refer to this document now only because the prosecution used it as part of its evidence concerning the organization of the WVHA.

DEFENDANT POHL: This document—

MR. ROBBINS: Excuse me. I do not understand the question. Will you repeat it please?

DR. SEIDL: This was my question. What were the details of this conference? What were the reasons for which this conference of 13 February 1943 took place, and what, in particular, do you have to say to the second last paragraph of this file note, where the question is being dealt with as to whether the machines needed by OSTI should be purchased by the Reich Ministry of Economics?

DEFENDANT POHL: This conference had been requested by Obersturmfuehrer Dr. Horn, as the business manager of the OSTI, which at that time was not yet founded. He came to Berlin and brought along this enormous questionnaire with about 30 questions on it, which I was unable to answer. The whole conference lasted little more than 10 minutes, and I told him, “You had better go to Lublin first, to the Government General, and look at what things are like there. I cannot judge them here from Berlin, and then this conference should be much easier.” That was the end of the conference as such. I only answered three questions which he put to me. Question one was, “The OSTI (Eastern Industry, G.m.b.H.) should use the Jewish labor of the Government General within the framework of the armament production, and should also use the property there. Is that order complete?” The second question was, “Is this order to be regarded primarily as a political or a police matter or as an economic matter?” I told him at that time, “Both.” The question at the

bottom concerning the purchase of machinery which OSTI needed for its enterprises was probably put as he left. My view was, basically speaking, that such machines as were necessary should be found and purchased.

As I said before, when that conference took place, I was very little informed about conditions and was therefore unable to answer these many questions. It was a very brief conference.

Q. There is another file note which comes from you yourself. It is dated 7 September 1943, and that was presented by the prosecution as Exhibit 63. It is Document NO-599, prosecution document book 3, page 75 of the German text and 74 of the English text. This file note concerns the taking over of Jewish labor camps by the SS and Police Leaders in the Government General. What is your explanation of that file note? What were your considerations when you took over these camps, and what purpose was to be served by this?

A. At that time, in the autumn of 1943, work had been started by order of Himmler, which had the aim to improve the very confused armament production in the Government General. By the transfer from western Germany to the Eastern territories there were to a considerable extent private firms who exploited local labor, and thus more or less had become war profiteers. Himmler himself saw these conditions and had therefore reached that decision. The immediate negotiations for this purpose, the issuing of orders for this task, he delegated to Obergruppenfuehrer Krueger, who was at that time the Higher SS and Police Leader at Krakow, and Himmler's deputy in the Government General who had frequently reported to him about these problems, and when he returned some days later, he came and saw me and discussed with me how this order could be carried out as far as it concerned me. Some of these orders concerned the taking over of 10 labor camps which the SS and Police Leaders had founded in the district of Lublin. The whole of the Government General had, I think, five districts, each of which was directed by an SS Police Leader under the orders of the Higher Police and SS Leader in Krakow, and each one of these five SS and Police Leaders in his area had become fairly independent, and so here again, within the area of the SS, conditions were somewhat muddled and confused. The over-all situation was detrimental to armament production because this lack of coordination and the interference of private firms depended on the inspector of the army equipment, Major General Schindler at Krakow. They, therefore, did not come up to scratch as far as labor was concerned and also the distribution of raw materials. In this file, now—

PRESIDING JUDGE TOMS: Dr. Seidl, this isn't even remotely in

answer to your question. Now go back to your question again and insist that the witness answer what you asked him.

DR. SEIDL: I asked the witness what his reasons were for making this file note, which is Prosecution Exhibit 63, and he has now described the negotiations which led to the fact that the 10 labor camps in Lublin, as contained under paragraph 3 of this file note were to have been taken over by the WVHA. I think the witness has finished with his description of these negotiations.

DEFENDANT POHL: Yes.

* * * * *

Q. Another prosecution exhibit concerns compensation of concentration camp commanders for incurred expenses. This is Document NO-2160, Prosecution Exhibit 76, document book 3, page 114 of the English text, and page 104 of the German version. I am asking you now, for what reason were the camp commanders given these reimbursements, and from what funds did the money come?

A. When the Inspectorate of Concentration Camps was incorporated into the WVHA and when the allocation of labor was introduced, I decided to appoint the camp commanders, as plant directors of the so-called W enterprises. These were enterprises within the concentration camps which through the years were strongly opposed by the concentration camp commanders. That became evident when the camp commandants took away the best workers from these W enterprises which were subordinated to the WVHA, and preferred to send these skilled workers to the workshops of the camps which were directed by the camp commandants themselves, and to their so-called "black" workshops, which they kept going secretly for all sorts of purposes. I believed that by making the camp commanders responsible in the W enterprises, I would then finally settle this problem. Thus, that skilled workers would now be sent by the commanders to wherever they could do their best work. For that reason I appointed the camp commanders as the heads of the enterprises. That was a fictitious title which had no effect on practical matters. In order to maintain that fiction, I gave them a monthly sum of money, some sort of salary, and this money had to come from the enterprises themselves.

* * * * *

Q. Who was in charge of these workshops where these inmates were employed, before the outbreak of the war?

A. These workshops and all the workshops I mentioned, were under the supervision of the camp commandant until, I believe, 1938.

Q. What were the reasons for the change of these workshops into economic enterprises which were not dealt with according

to commercial principles, and who was responsible for that change? Which one was the first, original change?

A. The number of concentration camp inmates increased in the course of the years. Therefore, these workshops increased also, so that quite soon they produced more than the camp needed. Here came the first appearance of corruption. That was the reason why Himmler ordered—it was approximately in 1938—that these workshops be placed under the supervision of the WVHA. The first enterprises were as economic enterprises of the SS—and at first only in Dachau—transferred to the WVHA.

Q. With reference to this change of these concentration camp workshops into commercial enterprises, was that agreed to by Eicke, or, what was his attitude in the whole matter?

A. Eicke fought against this transfer to the WVHA of the workshops, because thus he lost control over these workshops and also the right of disposal of the entire production and the results of these enterprises. In other words, he fought against it quite seriously.

Q. When were all these matters taken care of later on?

A. This resistance of Eicke was eliminated by itself when he was relieved in 1939 or 1940 and went to the front with the Death Head division. However, the resistance prevailed secretly until the end of the war within the ranks of the old camp commandants. I could show that by the fact that camp commandants tried to form black workshops, apart from those that were already in the camp; in other words, such workshops which would not be under the control of the WVHA.

Q. With reference to those workshops in Dachau, they were under the WVHA. That was the first change of its kind, wasn't it? And I ask you, when did that occur?

A. That occurred approximately in 1938.

Q. The German Ausruestungswerke, was that part of the group that was incorporated in the holding outfit at the outbreak of the war? When was it that the DWB was created?

A. The development was somewhat different. The nucleus of all economic enterprises of the SS was in Dachau, and were developed out of the workshops of the camp; these economic enterprises of the SS in Dachau in 1938 were surrendered to the WVHA. The following year, that is 1939, these economic enterprises were changed and thus developed the Deutsche Ausruestungswerke [DAW]. These DAW's in the course of time installed more workshops and enterprises in the remaining concentration camps. At Buchenwald, for instance, at Sachsenhausen, and also in Neuen-gamme later on, the DAW dealt first of all with workshops that worked with timber. In other words, they were the first of its

kind. Later on, or rather, already in 1937, independently from this entire development the DEST was developed, that was the first enterprise in Oranienburg. These two enterprises were the first two. They were formed together in the DAW, or, rather, DWB, as a holding company which was created in 1940.

Q. What other enterprises were created in connection with the concentration camps?

A. In connection with the concentration camps, apart from those two enterprises mentioned, no other enterprises were created or the other enterprises had no immediate contact with the concentration camp, whereas the DAW of the DEST had direct connection with the concentration camp.

* * * * *

I proceed to Document 1643-PS.* This is in document book on page 24. It is in document book 18, on page 76 of the German. It was introduced as Prosecution Exhibit 466 and deals with the concentration camp of Auschwitz. This is a letter which you yourself wrote on 7 November 1942, addressing it to the Reich Minister of Finance in Berlin. I ask you, in this connection, Witness, what were the prospects for enlarging Auschwitz? And what were the reasons for installing this so-called district of estates.

A. The regulating of this matter had nothing to do with the territory of concentration camps as such. In the territory outside the concentration camp which was of considerable size and primarily consisted of cultivating lands and woods, clear conditions were to be created as to the community law. And during the construction of the special pits for water, and also during road construction we had to carry on negotiations with three to six communities, although the SS was the beneficiary of that territory. That was the reason why the legal conditions were to be simplified in order to eliminate these difficulties. This, however, is no exceptional case. The same procedure was used there as would have been used in a special training field. That is, regardless of whether it was a training field for the SS or for the Wehrmacht, they had their own special estates where they could carry out their training. As soon as two or three communities came into that sphere of interest, the territory of the concentration camp itself was large enough and was also sufficient for the construction projects.

Q. Then I shall proceed to Document 1276-PS—

PRESIDING JUDGE TOMS: Before you leave Exhibit 466—this is a letter written by you, is it?

* Nazi Conspiracy and Aggression, vol. IV, p. 155, U.S. Government Printing Office, Washington, 1946.

DEFENDANT POHL: Yes, that is correct, your Honor. And in the—

Q. And in it you proposed to take additional land for the concentration camp of Auschwitz, to make it larger?

A. No, your Honor. We had enough property around there. The competence as to community law in this large territory was to be cleared. I just explained that in the entire area there were six communities, and that when it was proved, for instance, that when wells were built, etc., etc., there were difficulties because we had to negotiate the whole thing with six communities. That was the reason why these six communities were to consolidate the territory used for building purposes or agricultural purposes, into one single property, a so-called Gutsbezirk, in German. The same is applied to all the training fields used for the soldiers. That was nothing new, nothing special.

Q. It was so that all the different parcels should be under one ownership?

A. Yes. That is quite correct.

Q. And in carrying out that plan, you proposed to pay only racial Germans for what was taken?

A. No.

Q. Now you say no—but read this sentence with me: “Racial Germans should be compensated for their estates in money or in allotting other ground properties to them.”

A. Your Honor, I don't quite see what the passage is you are reading.

Q. In the next to the last paragraph it reads, “The SS suggests that the Reich Commissioner for the securing of the German elements—.” Do you have the right page? Do you have the document?

A. No; not yet, your Honor.

DR. SEIDL: I believe it is on page 38.

PRESIDING JUDGE TOMS: Well, it is Document 1643-PS.

DEFENDANT POHL: Yes. I have that, your Honor.

DR. SEIDL: It is the sixth line from below, your Honor.

PRESIDING JUDGE TOMS: Sixth line from the bottom.

DEFENDANT POHL: It says here the office of the Reich commissioner for the—and so forth.

DR. SEIDL: The Office for the Strengthening of Germanism agrees on principle * * *

DEFENDANT POHL: Yes, that is it.

PRESIDING JUDGE TOMS: The second sentence in that paragraph.

DEFENDANT POHL: I have it, your Honor.

PRESIDING JUDGE TOMS: Racial Germans should be compensated

for their estates in money or in allotting other ground properties to them. Do you see that?

DEFENDANT POHL: I do.

Q. Was there any suggestion to compensate Poles or Jews or the church for property taken from them?

A. Well, I do not know that, your Honor. Those questions were dealt with by the Reich Commissioner for the Strengthening of Germanism, or then by other agencies. I don't know how they dealt with it.

Q. This is your letter, Sir? This is your letter?

A. Yes.

Q. Is there any suggestion in your letter that anybody else except racial Germans should be paid for what was taken away from them?

A. I could not tell you that, your Honor. You see, I don't know exactly all—all I know, it was agricultural country and that it was wooded areas. I don't know who dealt with it. I believe that the question of paying for church property was also taken care of here in this document.

Q. Where?

A. On page 43, your Honor. It is on page 43. I see something here.

The representative of the expert of the Reich Ministry of Finance drew the attention to the fact that against the release of church property which is within that area of the concentration camp Auschwitz, there are no doubts as to that matter with the Reich Leader SS, no misgivings whatever. The Reich Finance Administration, however, has only the right of disposal over church property at that moment when the property is taken by the authorities of the RSHA.

This agricultural country is being taken here. In other words, this is nothing but an administrative matter. I don't know exactly.

Q. Do you understand me now? Your letter says that the property which was used to enlarge the camp at Auschwitz came from six different sources: (1) Jewish and Polish private landowners; (2) towns in which most of the industrial property belonged to the Poles and Jews; (3) the Polish State; (4) the community; (5) the church, and (6) racial Germans. Now, I am reading those from your letter, and the next thing you say is that of those six, racial Germans shall be paid for property which is taken—but nobody else.

A. Yes. Well, I believe that the others were not paid—of

course only the Germans were paid here, and the rest of the territory was confiscated.

* * * * *

EXTRACTS FROM TESTIMONY OF DEFENDANT MUMMENTHEY *

DIRECT EXAMINATION

* * * * *

DR. FROESCHMANN (counsel for defendant Mumenthey):
When and where were you born?

DEFENDANT MUMMENTHEY: I was born on 11 July 1906 in Aue, in the Ore [Erz] Mountains, in Saxony.

Q. Is that the same Aue which lately has made news because of the—in connection with the forced labor camp and the uranium discoveries there?

A. Yes. That is quite correct.

Q. Please tell us very briefly about your youth.

A. I grew up in Aue and in Olbernhau in the Ore Mountains. My ancestors on my father's side came from Lower Saxony. They settled near Hanover, and they can be traced back to the fourteenth century. We were impoverished because of the Thirty Year War. For centuries they were miners in the Harz. My ancestors on my mother's side hail from the Erzgebirge, the Ore Mountains, and from Franconia. They were usually craftsmen. In our family history the fate of the German people is mirrored in its ups and downs through the centuries.

Q. You are, therefore, a mixture of the heavy and serious people of lower Saxony and the same orderly and reserved character of the people of Franconia.

A. Yes. That is right.

Q. Will you please give us a brief description of your upbringing at home?

A. At home my upbringing was strict and modest * * *.

Q. What was your father?

A. Although my father was a member of a cooperative bank, on the board of directors of a cooperative bank, genuine religiousness, practical Christianity, and absolute truthfulness is what I found in my parents to follow as an example. At an early date I had to start work in order to learn about the seriousness of life.

* * * * *

Q. What did you do after you left school?

A. I was apprenticed with the Olbernhauer Volksbank between 1924 and 1926, and my father supervised me there. As the ex-

* Complete testimony is recorded in mimeographed transcript, 4-7 August 1947, pp. 5512-5769.

pression goes, I learned from the bottom of the ladder all branches of the banking business, and the principles of a conscientious and orderly banker were impressed upon me.

Q. Did you then go to a university?

A. Yes. My parents made it possible for me to go to a university by leading an economic life. After 1926, until 1933 I studied in Frankfurt on Main, in Kiel, and Leipzig, at first economics and social science, and later on law. In 1928, I took one year's leave in order to prepare my matriculation. In the same year I actually did matriculate at the Oberrealschule in Dresden-Johannstadt.

Q. Now, Herr Mummenthey, we have now reached a period of time which was to be of great importance for your future life. Just a moment, please—did you, while you were at the university, gain any experiences about administration of punishment?

A. Yes. This is how that came about. The legal faculty of the Kiel University once arranged for a trip to Hamburg in order to inspect the penal institutions there, which were supposed to be particularly up to date. The impressions which I gained there I shall describe later on.

Q. When did you pass your first legal examination in Leipzig?

A. That was in 1934. I thereupon took up a preparatory legal service occupation and became an assistant to the courts, in city and district courts, as well as the public prosecution authorities, in Burgstaedt, Chemnitz, and Leipzig.

Q. Did you during that period of time take part in any practical training courses?

A. Yes, such courses were being held at the time in order to show the various types of penal institutions, particularly in Waldheim and in Bautzen.

Q. Is it true that in 1937 when you had finished your preparatory status you made your final legal examination?

A. Yes. That happened at the end of 1937.

* * * * *

Q. Do you know the reasons which motivated Pohl to divide the WVHA into various offices?

A. I don't know the reasons which caused Pohl in 1942 to organize a group of firms under the WVHA and to give them titles of offices.

Q. How can you explain the fact that Pohl did that?

A. I believe that I am not wrong in assuming that these offices and office chiefs only corresponded to his military concepts which he had gained when still working in the navy. There he was used to working with offices of the military administration. If Pohl had come into the WVHA by way of a profession, he would have applied the usual professional concepts to the WVHA and the

group of firms subordinated to him, for sure. In my opinion Pohl could have organized and named the offices in WVHA the way he wished; in the commercial and legal character of the firm nothing would have been changed as a result of that.

As a legal expert I was used to seeing sharply and expressed title in private institutes. As an economic expert I also knew titles for enterprises in economic life. For me it was never understandable just how a private company could be called an office and its manager be called an office chief. Furthermore, my deputizing together with the other business manager this theory of office chief for me alone without the consent of another business manager was not possible to give any legal instructions.

Q. What was your office designation—what did it mean to you—office chief of office W I?

A. It was purely functional for me. As chief of office W I, I was not in any legal public relationship of the Reich or the Party, I only had a private working contract with DEST G.m.b.H., with the title of office chief. I did not have any official function and had no civil service function whatsoever. In the W office no official titles could be maintained. Regarding so-called orders or directives from the chief of the Main Office Pohl, I only felt myself bound insofar as Pohl, even if he called himself chief of Main Office, was for me only the business manager of the holding company DWB. In this connection I would like to point out briefly, and that has been already mentioned, that between the DWB and DEST, and Bohemia and Allach so-called corporation contracts existed. According to this the first companies I mentioned were holding companies and the last two companies corporations.

Q. Mr. Mumenthey, I don't have to go into further details regarding the business interest of the DWB since, according to the statement of the Tribunal of several days ago, the fact was established that the business companies did not become effective. However, in this connection I would like to ask you did you have any positive opinion with regard to the office chief, or is that possible?

A. In conclusion I would like to state that everyone of the witnesses and the defendants here has had a different opinion about the position of W chiefs. It is just like looking through a kaleidoscope whereby through a simple mechanical effect, you have a constantly changing picture.

Q. In conclusion, can I say that you were of the opinion that the designation office and office chief was nothing but a purely functional title he [Pohl] thought up himself and took along with him from his former profession. Could I complete the point in saying that if Pohl previously had been director of a circus then

probably he would have talked about departments or something similar without this having any effect on the character of DEST?

A. Yes.

* * * * *

Q. Witness, please continue in your description about the reasons which led to the establishment of the DEST (Deutsche Erd- und Steinwerke) [German Earth and Stone Works], as far as you know them?

A. Dr. Salpeter,¹ at some later date, told me when we discussed the credit negotiations with the German Gold Discount Bank about the origin and development of the DEST. From the files which I saw later on I learned quite a few interesting facts. I was in a position, therefore, to form an impression which should, on the whole, be correct, even if it is not completely provable down to the last detail.

Hitler, as everybody should know, was always very interested in architecture. As time went on this inclination became a veritable obsession. As his power grew, his plans grew also. The Reichsautobahnen, the Reich Motor Highways, large bridges were built such as the one across the Elbe, near Hamburg, the buildings on the Reich Party rally grounds in Nuernberg, the big stadium in Berlin, and other big cities, and soon this was combined with plans to rebuild certain German cities such as Berlin, Hamburg, Weimar, and others.

Hitler found in Speer,² who later on became a Reich Minister, and in Todt, the director of the OT [Organization Todt], a willing audience for his plans. These two men complied with Hitler's wishes, and within the scope of the Four Year Plan, they drafted extensive architectural plans. The executions of these plans depended on the available material, of course. The capacities of the existing industries were not sufficient to cover the requirements. The project of the Elbe bridge, near Hamburg, alone would have required at least 240,000 cubic meters of granite stones, if it could be carried out at all. That requirement was tantamount to the total production of the German granite industry for 3 years. The German Brick and Natural Stone industry was operating on an obsolete basis. Since 1914 its construction activities had become very small owing to the war and the economic collapse. Most enterprises also lacked capital. Modern big works which

¹ Earlier in the interrogation, Dr. Froeschmann asked: Q. Herr Mummmenthey, we heard frequently during the trial the name of Dr. Salpeter. A number of witnesses have made statements about him. Is it true that Salpeter since 1938 and until 1941 was your superior and that from 1939 to 1941 he was in charge of the destiny of DEST, is that right? A. Yes. (Tr. p. 5516.)

² Defendant in case before International Military Tribunal. See Trial of the Major War Criminals, *op. cit. supra*, vols. I-XLII.

could produce adequately did not exist. Speer, who knew what Hitler wanted, probably convinced Himmler that the risk involved in these colossal enterprises was considerable in view of the extraordinary requirements of construction materials, and private industry would not be in a position to take over these plans. He suggested that this should be turned into a government project.

This idea probably met Himmler's desire to become powerful. Hoping that the Inspector General for the Reconstruction of German Cities, Speer, would support him financially, Himmler decided to have brick and granite works established, and by mechanization to increase their capacity beyond all expectations. Himmler was quite aware of the fact that, in order to meet these enormous requirements, Germany did not have enough labor. In his capacity as chief of German police, he, of course, was aware of the fact that in concentration camps there were thousands of inmates who were kept by the Reich without performing any productive work. Therefore, it was a logical thing for him to decide to use these inmates as workers.

As things calmed down politically, inmates, of course, would be reduced in numbers. What would remain would be the criminals and what was known as the "antisocials."

Q. What do you mean by "antisocials?"

A. If in my further statements I use that term more frequently, I mean by that people who were loafers by profession and inclination, pimps, notorious drunkards, beggars, tramps; people, in other words, who, according to common practice in Germany, for decades were forcibly detained in workhouses. But I don't mean by that term the same thing which Himmler and Thierack¹ meant, in Document 654-PS, Prosecution Exhibit 333, in document book 12, on page 14, where reference is made to antisocial elements—

Q. On page 28 of the English document book?

A. I want to emphasize the difference in the concept. By "antisocial elements" we never meant at that time the same thing which the document lays down. I thought that criminals and antisocial elements would remain behind as the political development went on.

However, even they would have been adequate in normal times if, as a consequence of the mechanization of the plants, the requirements for workers decreased. The primary idea of increasing production was, therefore, combined with the secondary idea of allocating inmates to this work.

¹ Dr. Otto Georg Thierack, Reich Minister of Justice, President of the Academy for German Law. See case of United States *vs.* Altstoetter, et al., vol. III, this series.

Q. You therefore think that from these ideas of Himmler's an order was issued to Pohl to have very highly mechanized plants established?

A. I would assume so, yes.

Q. May I interpolate something here? You heard what the Witness Bickel * said, and we know that in some form or other the SS was linked to these plants. Is it your view that the SS represented the public ownership which Himmler thought of when he wanted to take over these plants?

A. I should imagine so.

Q. Therefore, the DEST owed its origin to Speer's demands to cover the enormous requirements in building materials for the construction plan and to use inmates was now to create the possibility of realizing these requirements in a productive sense?

A. Yes. That is quite correct. But I believe that the use of inmates was regarded only as a temporary measure. Therefore, it would be wrong to assume that the DEST was an enterprise working inmates in the sense that the inmates were being exploited. The purpose really was to cover the requirements for building materials. Allocation of inmates was a temporary means for a certain purpose.

Q. Herr Mummmenthey, when the contract for this was drawn up was it laid down or even hinted that labor was to be recruited from inmates?

A. No. It was not contained in the contract.

Q. Can you tell this Court something about another decree in the rules of the DAW, according to which this idea is first voiced?

A. I believe I have seen something in the prosecution's documents that the DAW expressed in its regulations an idea of that nature.

Q. Please continue.

A. As an economic enterprise the DEST was vitally interested in obtaining and preserving skilled workers and other workers, whereas the RSHA and its subordinate departments, particularly the commandants of the concentration camps, were in all cases quite obviously interested only in the security angle. Therefore, the obvious natural interest of the DEST on the basis of the regulations issued by the Reich Ministry of Justice contradicted the practices of the RSHA.

Q. Was it, in other words, the case that the DEST faced the

* Complete testimony of defense witness Helmut Bickel appears on Tr. pp. 5381-5512, 31 July and 4 August 1947. See excerpts reproduced on pp. 459-475, 685-687, 784-785, and 812-821.

problem of the human beings, so to speak, whereas the RSHA had its problems only in security matters?

A. That is quite correct, yes.

Q. Therefore, you are really unanimously in agreement with what the Witness Bickel has told us in another form?

A. Yes.

Q. Please continue.

A. From this contradiction there developed in the course of years the conflict, as I would like to call it, which became particularly obvious in the plants. I could sketch it as follows: The commandants of concentration camps, as far as Himmler and the tendency of the RSHA were concerned, were pure power politicians. They confined their power not only to the concentration camps themselves but also to the allocation of inmates to enterprises. The climax of that development was reached in Pohl's order of 1 May 1942.

Q. This is Document R-129, which is Prosecution Exhibit 40, document book 2, on page 70 of the German version, and on page 66 of the English document book.

A. Pohl has stated in this Court that by this order he wanted to interest the concentration camp commandants in the economic enterprises and interest them in the allocation of inmates from an economic point of view. In actual practice, however, the result of this order was, that the commandants of the individual camps, by their mentality, regarded themselves more or less as the masters of the enterprises. They called themselves directors of enterprises, and they acted accordingly. By this order, Pohl, as he said, wanted to improve matters. But as things developed they took a very different turn. The influence and the power of these commandants was only increased to the detriment of the local plant managements, and also to the detriment of the main administration of the DEST in Berlin. On the basis of our numerous experiences I always regarded this Pohl order as a definite limitation of our authority. In the course of the numerous complaints and objections which I had to make to all the commandants, they always excused themselves with this order.

Q. Now, did the various detachment leaders as far as you know, also adjust themselves to the attitude of the commandants?

A. The detachment leaders who were in charge of the labor detachments in the plants should have confined themselves to only guarding the inmates and general security measures. The expert instructions and programatic directives were to be left to the civilians, managers, foremen, and workers of the plant. However, in line with the attitude taken by their commandants, they kept interfering time and again, although this decreased as time

went on, in things which were entirely up to the plant. They issued orders about a type of work they knew nothing about, and in some cases they even wanted to decide how fast a man should work. A super-military tone was used in addressing the inmates and Bickel made a similar statement about the acts of the guards which were a natural result of the attitude maintained by the commandants. Numerous tensions and differences of opinion between the management of the plants of the DEST on the one hand and the commandants on the other hand resulted. This struggle which lasted for about 5 years, without any exaggeration, completely undermined my health and nervous energy.

Q. Now, what about a later period of time when armament production was introduced?

A. Just as originally the production of bricks and natural stone was the primary task, the armament production in the interest of Germany became later on, the most important task by order of Reich Minister Speer, and the head of the Fighter Staff [Jaegerstab], Field Marshal Milch.* In that period, the struggle of the DEST for economic matters on the one hand and for political power on the other hand with the commandants continued without a break. In that period of time again the allocation of inmates was only a means to an end. For that time period any reproach that the DEST used inmates is, in my opinion, unjustified. If you want to use the term inmates' enterprise at all, then the DEST was far from being the biggest employer of inmates. The German industry had to rely quite generally on that type of labor. The Messerschmitt Works in Augsburg, for instance, employed over 20,000 inmates. But quite apart from that, the DEST, and I shall speak about that in detail later, for economic reasons had a vital interest in speaking up for the inmates. If the camp commandants then followed the very opposite policy, a manager of a plant had to see to it that he did not have too much to do with the camp commandant. In that direction I worked myself.

Q. Now, Herr Mummenthey, you have described the development of the DEST. I want to emphasize briefly that you should describe as briefly as possible the financial status of the DEST.

A. Although the economic basis of this enterprise was very unstable before I joined it, its financing was equally unplanned and haphazard; economic ignorance led to the fact that the DEST was founded with its little capital of 20,000 marks, and in the course of the years it was increased to 500,000 marks and finally to 5,000,000 marks through various loans. The capital of 20,000 marks was, of course, hopelessly inadequate for the smallest

* Defendant in case of United States vs. Erhard Milch, Trials of War Criminals before the Nuernberg Military Tribunals, vol. II.

building to be established, for the smallest shack, let alone a large enterprise. Consequently, it became necessary to take up loans.

Q. What loans, to speak very briefly, were taken up in the course of the years? Don't go into details here but just give us a brief outline in chronological order.

A. In 1939, the Dresdner Bank gave us a loan of 5 million marks at an interest of 5 percent and the usual provisions. The basis of that loan was a personal guarantee which Himmler gave, and which legally, financially, and practically was without any meaning. As far as the negotiations about this loan were concerned, I did not take part in them myself. I was merely informed that the loan had been granted.

In the same year, 1939, the German Verkehrskreditbank gave us a loan of about one million with an interest of about 10 percent which was arranged for the Organization Todt. The Deutsche Bank at Berlin in 1939 and 1941 gave us what was called an open loan to the tune of 16 millions in two installments of 8 millions each, the interest being 3 percent; later on it was two and three-quarters and in the end two and one-half percent.

The negotiations on behalf of the DEST were carried out by Dr. Salpeter mainly on the basis of extensive material about the purpose of the contract and various planning items and other details of the sort, before the loan was granted. In other words, the bank was fully informed. The vice president of the German Reich Bank, Puhl, and a few other gentlemen from the Reich Bank inspected personally a number of plants and expressed their approval of what they had seen.

The city of Hamburg in 1940 granted a loan to the DEST for construction purposes at four percent, in order to construct the Clinker Works in Neuengamme, and in order to rebuild the old Hanseatic town of Hamburg. This was within the scope of a contract to which I shall make brief reference later on. From the capital of the German Gold Discount Bank, the loans of the Dresdner Bank and the Bank in Hamburg were repaid. In 1939 the Inspector General for the Reconstruction of the Reich capital Berlin, gave to 10 million marks in order to establish the brickworks at Oranienburg.

During 1939 and later on, a number of directorates of the Reich Motor Highways, the Reichsautobahnen, and also the city of Linz, in order to establish the brickworks in Prambachkirchen and the GBI [Plenipotentiary General for Industry] granted further loans to the tune of several million marks in order to build up the granite works and the stone processing works at Oranienburg.

They continued to finance the plant and the Hermann Goering Works financed through its foundries in Linz the extension of the testing station at Linz. The loans were in part repaid until the end of the war or they were adjusted otherwise. Finally, we had the negotiations with the Messerschmitt Works and the Montan G.m.b.H., in Berlin which was an enterprise of the OKH [High Command of the Army] and they had to carry out armament orders.

They were particularly difficult to handle because over a hundred agencies had to address themselves with orders, requests, and so forth, to us. This brief light cast on the financial background of the DEST in 1938 and 1939 shows that capital was far too tight at the time for those big orders to be carried out on a proper commercial basis.

Q. Now, did the DEST receive any further support, materially, speaking from a third party?

A. Yes. As I said before, the DEST was to cover these enormous requirements for building material. In order to fulfill that task, the DEST was largely supported by the Inspector General for Construction who earmarked building material, machines, timber, and iron for it. It also did the planning for the various plants and consulted them.

Q. Now Herr Mumenthey, I do not wish to tax the Court's time too heavily, and, therefore, I would like you to tell us briefly of what plants the DEST was comprised and tell us also because somebody said here—I don't know whether it was the Tribunal itself or some witness—what the capacity of the DEST was in order to show us what the plans of the DEST really were. Is it correct to say that the DEST on the one hand operated granite works and marble pits and on the other brickworks?

A. Yes. Before the end of the war, the DEST consisted of about 14 plants including small plants, but they were mainly brick and granite works and other plants which could use building material. From 1938 to 1942, the activity was mainly controlled by the taking over of new enterprises and the extension of the old ones. Numerous difficulties, especially since the outbreak of the war, delayed production considerably. Production was made impossible in fact in some cases as in the case of Oranienburg. The brickworks, particularly those at Oranienburg presented technical problems which in some cases were insurmountable.

The most important works were the following: Oranienburg had a capacity, according to plan, of 160 million bricks. The Berstedt plant near Weimar had an annual production of 8 million bricks; the Clinker Works in Neuengamme-Hamburg were to produce between 30 and 40 million of clinker. The granite

works in Flossenbuerg was to produce annually about 20,000 cubic meters of granite stones. The granite works in St. Georgen planned to produce about 20-25,000 cubic meters of processed stones. The granite works at Gross-Rosen, Marburg, and Benschau to produce about 40,000 cubic meters of granite stones per year.

Q. Were these the most important ones?

A. Yes.

Q. What about the smaller ones?

A. The clay works at Stutthof, Hopehill, Reimannsfelde with an annual capacity of about 15 million bricks, the gravel works in Auschwitz, the testing station in Linz, the debris-utilization plants in Essen, Duesseldorf, and Hamburg, the stone processing works in Oranienburg to which only the stone depot was established; further there was a plan to establish a big brick works at Prambachkirchen which however was not established.

* * * * *

CROSS-EXAMINATION

MR. MCHANEY: Do you accept the responsibility for the operation of the DEST enterprise?

A. I don't quite understand that question, Mr. Prosecutor.

Q. I say, do you accept the responsibility for operation of the DEST enterprise?

A. I was a co-business manager of DEST, German Earth and Stone Works, and in that capacity, according to commercial law, namely according to law on G.m.b.H. [limited liability companies], I have to bear the responsibility for it.

Q. Well, my question was directed more to your, shall we say moral responsibility, the legal question will be settled by this Tribunal, but I wanted some reaction from you personally to see if you are ready to accept the responsibility for the operation of the DEST enterprise.

A. I simply didn't understand your question, Mr. Prosecutor.

Q. I say, I just wish to know whether you personally from a moral point of view now accept the responsibility for the operation of the DEST enterprise?

A. I was nothing but the co-business manager of that enterprise is all I can say.

Q. Well, if you aren't responsible to whom should we look?

A. I did not say that I was not responsible. I simply said I was co-business manager of the German Earth and Stone Works.

Q. You don't know of anyone else.

A. I am responsible just like any other business manager according to the German Law.

Q. You don't know of anybody else you would believe more

responsible for the over-all operation of the DEST enterprise than you yourself, Witness?

A. Within the business management of the DEST, which, in the last few years, consisted of three business managers, the fields of tasks were distributed among individuals as described by me in my direct examination.

Q. That is just what I was getting at. Then you tell the Tribunal your responsibility should be limited to financial matters, is that right?

A. I dealt with the commercial field of tasks, the financial field of tasks and the legal field of tasks in the direction of the enterprises.

Q. You had nothing to do with the allocation of inmates to your enterprises, is that right?

A. The allocation of inmates according to the work of the enterprises was first of all with the business managers and then with the technical management. That, of course, does not mean that all three business managers on individual questions would also deal with labor allocation questions.

Q. Did you deal with labor allocation questions, did you or didn't you?

A. If it was necessary, yes, but not fundamentally.

Q. Was it necessary? Did you, in fact?

A. Yes, I did; that is correct.

* * * * *

Q. How many times did you visit concentration camps, and I now distinguish between these visits to the plants and the visits to the concentration camps themselves. How many times have you been in a concentration camp?

A. You mean the headquarters building, Mr. Prosecutor. If I had to speak to the commander, I could only do that in his office in the headquarters building. That was the reason why I had to go and see him, and that occurred on several occasions in the course of the years.

Q. How many times were you in a concentration camp? Let's just take the front gate, how many times did you walk through the front gate?

A. I simply couldn't tell you that today, Mr. Prosecutor.

Q. About 50 times?

A. I really can't remember a figure.

Q. Well, would you say that was too high or too low?

A. I simply can't give you any figure, Mr. Prosecutor, I simply can't.

Q. You can't, or you refuse to?

A. After all, I am sitting here at the witnesses' dock, and it is

not a question of wanting to or being able to tell you. After so many years, I can't tell you how many visits I made to the individual plants and how many times I have seen the commander. It would simply be impossible.

Q. Now, Defendant, you must have had some sort of regular inspection trips to your plants. How often did you visit the plants now. You said you had 14 by the end of the war. How many times did you visit those plants during a year's time?

A. Well, it depended entirely on the importance of my call, and it depended on the importance of the plant also. As an average, in the more important plants, it was three or four, and possibly five times a year, and in the smaller enterprises, or plants, it was once or twice a year at the utmost.

Q. But you made it a point to visit every plant of the DEST industry, didn't you, Defendant?

A. Yes. That was my duty.

Q. And isn't it true that you customarily went inside the camp proper when you made visits to these plants?

A. If it was necessary to talk to the commander, I would go to his office.

Q. All right, that gets us rather close to a figure, doesn't it, Defendant? You said you visited at least the larger plants as frequently as five times a year. You just take a rough average of ten plants, that's 50 trips a year. So, my figure of 50 times in the concentration camps was undoubtedly too low, wasn't it, Defendant?

A. I did not go to the commander every time I went to visit a plant. That was not necessary every time I went to visit a plant.

Q. You just testified that you usually did though, isn't that true?

A. I stated that if it should become necessary I went to see the commander.

Q. And that was usually necessary, wasn't it?

A. Frequently.

* * * * *

Q. Now, Witness, we didn't quite get the fact straight about the reports on deaths among inmates working for DEST, and I ask you, did you ever receive a report of any kind stating that deaths had occurred among the inmates working for a DEST enterprise?

A. I cannot recall ever having received such a report.

Q. So your testimony is that you received no reports of even a single death?

A. I have already stated in my direct examination that acci-

dents occurred in the plants. They would be brought to my knowledge.

Q. Now how does—how do you reconcile that with just what you told me? You said you received no report of any deaths among inmates working for DEST. Now, you say you received a report of certain accidents. Was anybody killed in these accidents?

A. As far as I can recall we had a fatal accident at one time at Flossenbuerg. The person later on died of his injuries. I know that because the legal department worked on the accident insurance, etc. I also know such a case from Oranienburg. This happened in the year 1944.

Q. These two deaths you remember having received a report on, is that correct?

A. Yes. It was a plant accident with fatal results.

Q. Other than those two deaths you received no reports, no information about deaths among the inmates working for DEST, is that right?

A. I can't recall any additional ones.

* * * * *

Q. You knew nothing about mass transportations of Jews?

A. No.

Q. What about your statement and the letter signed by you, Document NO-1278, Prosecution Exhibit 440? It is in book 16. That is your letter concerning the diamond-cutting operation in Herzogenbusch [Hertogenbosch] and the proposal to transfer it to Gross-Rosen?

A. I didn't hear the last word. Where was it being transferred to?

Q. Gross-Rosen?

A. No, not Gross-Rosen.

Q. Bergen-Belsen?

A. Yes.

Q. Do you have that letter before you?

A. Yes.

Q. Do you see on page one of the original where you are summarizing the development, the date March 1944, you state that the Reich Leader SS orders the deportation of Jews from the Netherlands?

A. It doesn't say so here.

Q. What does it say there?

A. What it says here is March 1944. The last Jewish diamond cutters have been transported away. I should say first of all about this document that although I signed it, I didn't draw it up.

Q. Just a minute, Witness, we are not interested in that right now. Let's get this translation straight. Are you reading from

18 May 1944 or March 1944? My translation has a date of March 1944.

A. March 1944.

Q. And my translation says "Reich Leader SS orders the deportation of Jews from the Netherlands."

A. It doesn't say so here.

PRESIDING JUDGE TOMS: Let's see this book now.

MR. MCHANEY: Will you pass the German up?

PRESIDING JUDGE TOMS: Well, if this German follows the original, it doesn't say what the English copy says at all.

MR. MCHANEY: Well, your Honor, I suggest we postpone the question until such time as we can have a photostatic copy of the German brought down.

* * * * *

MR. MCHANEY: We now have the photostatic copy of NO-1278, Prosecution Exhibit 440, and I think it shows that the English translation is correct. I will pass it to the witness, and he can verify it. Defendant, what does it say in this letter signed by you under the date March 1944?

DEFENDANT MUMMENTHEY: It says there, "RF SS has ordered that Jews must be deported from the Netherlands."

* * * * *

D. Consignment of concentration camp inmates to work for public and private enterprises

I. INTRODUCTION

The indictment alleged that "The WVHA discharged the responsibility for the supply of the forced labor and services of concentration camp inmates and the allotment of such supply to public and private employers throughout Germany and the occupied countries and territories," (par. 15). The defense argued that the assignment of inmates to work did not constitute war crimes or crimes against humanity under Control Council Law No. 10. In the selections from the record below, evidence of the prosecution pages 579 to 592 is followed by evidence of the defense pages 593 to 607.

The closing statement on behalf of the defendant Pohl contains extensive defense argument on the question of the work of concentration camp inmates. This closing statement is reproduced on pages 865 to 921.

2. SELECTIONS FROM EVIDENCE

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-3654	557.....	Circular order of Pohl, 11 July 1940, concerning payment to the Reich for industrial work of concentration camp prisoners.	579
NO-3696	567.....	Circular of Main Division I/5 of Main Office Budget and Buildings, 11 April 1941, inviting labor allocation officers of 6 concentration camps to second labor allocation conference, Dachau; and enclosed agenda.	581
NO-1035	405.....	Letter from Hohberg to Pohl, 18 July 1942, suggesting transfer of compensation for prisoners' work to the "Lebensborn" organization and amending letter of 21 July.	582
NO-1289	406.....	Circular letter by Pohl, 30 December 1942, concerning new scales for compensation for prisoners' work; letter from Hohberg to Maurer, 22 December 1942, concerning computation of "profits from the employment of Jewish prisoners" in Lublin.	584
NO-1905	353.....	Letter from Pohl to SS Oberfuehrer Kranefuss (Personal Staff of Himmler), 15 January 1944, concerning allocation of concentration camp prisoners to I.G. Farbenindustrie Auschwitz and other chemical firms.	586
NO-517	86.....	Memorandum, 23 March 1944, signed by Baier, concerning "Camp Regulations for Prisoners."	587
NI-638	372.....	Circular letter from Speer Ministry, 9 October 1944, concerning the handling of requests for concentration camp inmates, with enclosed application form.	588
NO-395	374.....	Letter from commander of concentration camp Flossenbuerg, 1 January 1945, transmitting production statements of SS and private enterprises to office D II of WVHA.	590

Defense Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
Sommer A/13..	Sommer Ex. 13..	Affidavit of Walther Schieber, chief of office for delivery of armament matériel, 11 January 1947, concerning negotiations about use of prisoners in armament industry.	600
Sommer A/1...	Sommer Ex. 2...	Extracts from affidavit of Gerhard Maurer, chief of office D II of WVHA, 22 May 1947, on organization of that office and Sommer's position in it.	601
Pohl 16.....	Pohl Ex. 15.....	Affidavit of Gerhard Maurer, of WVHA, 3 July 1947, concerning assignment of concentration camp prisoners to outside enterprises.	605

Testimony

Extract from testimony of defendant Pohl.....	593
Extracts from testimony of defendant Sommer.....	595
Extract from testimony of defendant Frank.....	607

TRANSLATION OF DOCUMENT NO-3654
PROSECUTION EXHIBIT 557

CIRCULAR ORDER OF POHL, 11 JULY 1940, CONCERNING PAYMENT
TO THE REICH FOR INDUSTRIAL WORK OF CONCENTRATION
CAMP PRISONERS

COPY

Main Office Budget and Buildings
Amt I/1 254 Gr./Qu

Berlin, 11 July 1940

Subject: Payment for prisoner labor.

As of 1 October [April] 1940 a compensation will have to be paid to the Reich for prisoners furnished for industrial purposes. Pending an approval by the Reich Minister for Finances, it has been set at an average rate of RM 0.30 per head and day, as far as SS owned enterprises are concerned.

Other—not SS owned—enterprises will pay a sum to be designated by the Main Office Budget and Buildings depending on the type of work and taking into consideration the number of specialists and other circumstances.

To take care of the expenses of the Reich for accident care of

the prisoners when the labor is furnished, an additional sum of 5 percent is included in these compensation rates. This order is based on Section 7, paragraph 4 of the law concerning accident-care for prisoners of 30 June 1900, Reich Law Gazette, page 536.

The work periods are to be reckoned by whole days only, whereby a period of 6 hours is to be considered a whole day. Periods under 6 hours are not to be charged for.

The billing and settling of the accounts is taken care of by the administration of the individual concentration camps. The amounts to be collected by the concentration camps from the SS owned and private enterprises are to be requested by the 10th of each month for the previous month. As far as private enterprises are concerned the actually designated daily rate rather than the average rate of RM 0.30 is to be entered in column 3.

The demand-vouchers are made out in duplicate, one copy being furnished to the employing agency, the other remains with the office. During the war, the amounts are to be entered under the heading 21 E (S).

The concentration camps will report initially and in one sum on 10 October the amounts collected for the period from 1 April up to and including the month of September. This report is also to be submitted to the Main Office Budget and Buildings on 15 January for the third quarter and on 15 April for the fourth quarter.

In the report to be submitted by 15 October it is also to be reported whether this accounting method has proved itself or whether suggestions for improvement are to be made.

The Chief of the Main Office Budget and Buildings
[Signed] POHL
SS Gruppenfuehrer

Certified true copy.

[Signed] PRIETZEL
SS Sturmbannfuehrer

Distribution:

Administration Office of the Waffen SS.....20 copies
(with copies for the troop administrations of the
concentration camps.)
Kdo. [Kommando-Detachment] of the Waffen SS.....20 copies
(with copies for the Inspector of Concentration Camps.)
Office [Amt] I10 copies
Office [Amt] III/A, III/B, III/C, III/D, 5 each.....20 copies
Garment factory Dachau 5 copies
Reserve (filed at I/1) 5 copies

80 copies

TRANSLATION OF DOCUMENT NO-3696
PROSECUTION EXHIBIT 567

CIRCULAR OF MAIN DIVISION I/5 OF MAIN OFFICE BUDGET AND BUILDINGS, 11 APRIL 1941, INVITING LABOR ALLOCATION OFFICERS OF 6 CONCENTRATION CAMPS TO SECOND LABOR ALLOCATION CONFERENCE, DACHAU; AND ENCLOSED AGENDA

Berlin, 11 April 1941

Main Division I/5

Az: Bur File reference F. -4.41.

Subject: [Labor] Allocation Officers' Conference

Reference: None

[Handwritten]

15 April [19] 41

GR[imm]

Copy for travel expenses account furnished to CC administration.

GR[imm]

To the offices of the Main Office
Budget and Buildings,
Branch office I/5 in the CC
Sachsenhausen, *Buchenwald*, Mauthausen,
Flossenbuerg, Auschwitz, and Neuengamme.

The second conference of the [labor] Allocation Officers will take place on the 22 and 23 inst. in Dachau (see attached program of the day).

I ask all officers to hold their collected material of the last account year, in order to be able to present and discuss them at the meeting. Every [labor] allocation officer has to give a short and clear report on the peculiarities of his work, so that his information can be useful to the other officers at the same time.

The way of cooperation with the headquarters and the various economic enterprises are to be brought out specially at the conference. At the same time every officer will have to give consideration to the usefulness and means of establishing a serviceable prisoner-card index, as this question will have to be settled fundamentally.

A discussion will give the possibility for clearing up general problems.

The necessary requests for duty orders are enclosed.

The Chief of the Main Division I/5

[Signed] BURBOECK

SS Hauptsturmfuehrer

[Enclosure]

Berlin, 11 April 1941

Main Division I/5

4.41/Bur/F.

[Labor] Allocation Officer conference on 22 and 23 April 1941
in Dachau

On 22 April 9:30 till 12 o'clock.

Survey of the expired account year, report on experiences and
basic orders for future work,

Hstuf. Burboeck.

Discussion on accounts,

Ustuf. Gast.

12 till 14 o'clock, dinner.

14:30 till 17 o'clock.

Continuation of the conference, reports by the individual
[labor] allocation officers about their activities and experiences.

20 hours. Visit to a Munich theater.

On 23 April 8 till 12 hours.

Inspection of the CC Dachau, the German Equipment Works,
the herb gardens, the porcelain manufacture and the clothing
works in Dachau.

12 till 14 hours, dinner.

14:30 till 17 hours.

Final discussions, Hstuf. Burboeck.

Basic explanations of the Amtschef, SS Oberf. Loerner, some-
time during the day, exact time will be fixed.

20 hours: Friendly get-together at the Casino of the CC

On 24 April: Return journey.

TRANSLATION OF DOCUMENT NO-1035
PROSECUTION EXHIBIT 405

LETTER FROM HOHBERG TO POHL, 18 JULY 1942, SUGGESTING
TRANSFER OF COMPENSATION FOR PRISONERS' WORK TO THE
"LEBENSBOHN" ORGANIZATION AND AMENDING LETTER OF 21
JULY

[Marginal note] File with German Equipment Works

21 July 1942

Obergruppenfuehrer,

You are already in receipt of this letter. By mistake the pris-
oners' *daily* wages have been referred to as *hourly* wages.

[Initial] W

[Initial] N

[Marginal note:] So what? P/20

Staff W—WL/N

Berlin-Lichterfelde, 18 July 1942

To SS Obergruppenfuehrer Pohl,
Here
Subject: Calculation of prisoners' daily wages.

Obergruppenfuehrer,

The advantage of low prisoners' daily wages at RM 0.30 will become evident in the workshops employing prisoners only when all prisoners are aptly assigned to their jobs. Whenever prisoner work comes close to the work performed by free labor, calculations based on actual prisoners' daily wages are rated so low as almost to cause uneasiness in the production branch concerned due to cheap offers from plants employing prisoners.

For the first time, the problem of low prisoners' daily wages has been disagreeably apparent in the case of the Textile and Leather Utilization Company Ltd., [Gesellschaft fuer Textil- und Lederwertung m.b.H.] in that the prices charged for the company's products have to be (and can be) so low that no private enterprise can compete with them any longer.

It is proposed to eliminate the special advantage of low prisoners' daily wages by the following method:

In the future prisoners for SS run shops will no longer immediately be placed at the disposal of such shops, but will be turned over to the Reich Leadership in its capacity as a Party organization, and represented by the SS Economic and Administrative Main Office [SS Wirtschafts-Verwaltungshauptamt]. The Reich Leadership SS as a Party organization will then make prisoner labor available to the firms concerned at rates in excess of RM 0.30. The difference between RM 0.30, as payable to the Reich and the prisoners' daily wages charged by the Reich Leadership SS to the firms, will be collected by the SS Economic Administrative Main Office to be turned over in full or part to the "Lebensborn e.V."

Tentative calculations: Assuming the prisoner's daily wages to total RM 1.00 instead of RM 0.30, the "Lebensborn" will, for 8,000 work days (2 shifts a day will provide 200,000 work days a month) derive a monthly sum of RM 140,000 from the Textile and Leather Utilization Company Ltd. Assuming that the charge for the prisoner's daily wage is raised to RM 2 the monthly sum for "Lebensborn" will amount to as much as RM 340,000.

Meanwhile the most profitable level of prisoners' daily wages for the purpose of calculation is being studied. According to preliminary calculations, prices for products of the Textile and Leather Utilization Company Ltd. will still be low, even when allowing for RM 2 or RM 2.50 as a prisoner's daily wage.

Once the German Equipment Works are in a position where

a higher figure for prisoners' daily wages can be allowed for in calculations, the "Lebensborn e.V.," at its present level of additional expenditure amounting to something between RM 1.5 and 2 millions per year will be safe from any financial trouble.

[Signed] DR. HOHBERG

TRANSLATION OF DOCUMENT NO-1289
PROSECUTION EXHIBIT 406

CIRCULAR LETTER BY POHL, 30 DECEMBER 1942, CONCERNING NEW SCALES FOR COMPENSATION FOR PRISONERS' WORK; LETTER FROM HOHBERG TO MAURER, 22 DECEMBER 1942, CONCERNING COMPUTATION OF "PROFITS FROM THE EMPLOYMENT OF JEWISH PRISONERS" IN LUBLIN

Copy

Chief of the SS Economic and Administrative Main Office
D II/3 20 Ma./Hag.

Berlin, 30 December 1942

[Handwritten] DR. HOHBERG

To:

1. Chiefs of Offices W I, W II, W III, W IV, W V, W VI, and W VIII
2. Camp commandants,
Labor mobilization of the concentration camps Au., Bu., Da., Flo., Gr. Ro., Lu., Mau., Na., Nie., Neu., Rav., Sh., Stutth.

By way of information to:

Chief of Amtsgruppe A
Chief of Amtsgruppe B
Chief of Amt A I
Chief of Amt A IV
Staff of W—Dr. Hohberg

Subject: New wage scales for the prisoners employed in economic enterprises.

[Handwritten] All general offices Ho

Valid from 1 January 1943 the following wage scales are established for the prisoners employed in economic enterprises:

Amt W I, W II, W III and W IV

Skilled laborers, skilled and un-	RM 1.50 per day
skilled helpers and apprentices	RM 0.50 per day

Amt W 5

For prisoners employed in production (for instance, spice mill).

Skilled workers	RM 1.50 per day
Skilled and unskilled helpers	RM 0.50 per day

For prisoners employed in experimental work (for instance, medicinal herb gardens).

Skilled workers and helpers..... RM 0.30 per day

Amt W VI

Skilled workers, skilled and RM 2.50 per day

unskilled helpers RM 0.50 per day

Amt W VIII for cultural tasks

Skilled workers and helpers..... RM 0.30 per day

For the present, this regulation is valid until 31 March 1943.

[Signed] POHL

SS Ogruf. and Lt. General of the Waffen SS

[Handwritten] For correctness:

[Signature illegible.]

For correctness.

[Signed] MAURER

SS Ostubaf.

Staff W—W 1/ EK

Berlin-Lichterfelde, 22 December 1942

To SS Ostubaf. Maurer

Amtsgruppe D

Oranienburg

Subject: Wage scales for prisoners.

With reference to the short telephone conversation, which SS Ostuf. Dr. Horn had with you a few days ago on my behalf, about Jewish prisoner enterprises in Lublin, I can inform you as follows:

On the basis of the elaborated system existing in Lublin to establish labor costs, it is possible to ascertain exactly the "norm wage" which is included in the cost of the products produced by the prisoners employed in production. Moreover, the exact cost of the "breaks" taken by the prisoners can be determined. It is therefore possible to determine for any chosen period exactly what profits were derived by the employment of Jewish prisoners. Thus also the "norm wage" for the Jewish prisoners employed as factory and office help, which is to be included as part of the production and administration overhead expense, can also be exactly accounted for on the plant account sheet, with the daily average rate serving a basis.

The Ogruf. [Pohl] has approved in a short discussion today, that, without prejudice to the investigations to be made by you, an exact computation of the compensation for the employment of prisoners is to be made, for the present by way of trial, for the camp Lublin. This is to be done in such a way that for the first quarter of 1943 an exact computation of the profits

“from the employment of Jewish prisoners” is to be made, and the amount arrived at is to be handed over. The German Equipment Works are to report to the Ogruf. about the result of this trial by the 1 April 1943.

I am informing you about this trial, and I shall, taking for granted that you agree with the above, keep you well posted on the results of the attempt in Lublin to ascertain an exact rate of compensation for prisoners.

Should you have any questions regarding this kind of accounting, at present planned for Lublin, or desire information I shall always be glad to be of service.

Heil Hitler!

[Initials] Ho [Dr. Hohberg]

TRANSLATION OF DOCUMENT NO-1905
PROSECUTION EXHIBIT 353

LETTER FROM POHL TO SS OBERFUEHRER KRANEFUSS (PERSONAL STAFF OF HIMMLER), 15 JANUARY 1944, CONCERNING ALLOCATION OF CONCENTRATION CAMP PRISONERS TO I. G. FARBEN-INDUSTRIE AUSCHWITZ AND OTHER CHEMICAL FIRMS

Copy

[Stamp]

Personal Board Reich Leader SS
Act. No. Sec. 359

KI

Chief of SS Economic Administrative Main Office
D II/1 Az.; 14 Ma./F.
Journal No. 668/44 sec.

Berlin, 15 January 1944,
Lichterfelde-West
Unter den Eichen 126-135

SECRET

To SS Oberfuehrer Fritz Kranefuss
Berlin C 2
Schinkelplatz 1
Subject: Prison inmates for chemical industry.
Reference: Your letter dated 7 January 1944 Az.: Kr/Ki.

My dear friend Kranefuss!

I have received your letter of the 7th of this month with the further request for lists of the Plenipotentiary General for Special Questions of Chemical Production and let you know that it is

not possible at the present time to start new commandos [labor detachments]. In the list of requests various wishes are expressed which, however, have already been fulfilled for some time. These are—

1. I.G. Farbenindustrie AG., Auschwitz, Upper Silesia. There prison inmates have been committed [eingesetzt] since April 1941. At present 5,300 inmates are employed.¹

2. Low temperature carbonizing plant [Schwelanlage] Jawischowitz, Jawischowitz, Upper Silesia. In the low temperature carbonizing plant Jawischowitz prison inmates have been used since July 1942. Originally 1,000 inmates were provided for this as is also specified in the list of requests that is now being sent. The labor detachment [Kommando] was, however, enlarged. Already 1,300 inmates are committed [eingesetzt].

3. Luranil and Anorgana G.m.b.H., Dyhernfurth. For Dyhernfurth a total of 2,700 prisoners altogether are agreed upon who also will be sent. Now 450 inmates are committed.

A considerable number of inmates are still needed to fill the labor allocations [Einsaetze] needed for the most urgent stage of the armament that will decide our victory, and which was begun with the Reich Ministry for Armament and War Production as well as with the Reich Air Ministry. In view of this fact I cannot fulfill further wishes for the present.

I will, however, keep the lists of requests here and will come back to this matter as soon as a possibility for allocation [Einsatz] exists. I ask you to inform Professor Krauch² of this.

Heil Hitler!

Yours,

[Signed] POHL

TRANSLATION OF DOCUMENT NO-517
PROSECUTION EXHIBIT 86

MEMORANDUM, 23 MARCH 1944, SIGNED BY BAIER, CONCERNING
"CAMP REGULATIONS FOR PRISONERS"

Chief W — Ch/Kue

Berlin 23 March 1944

Memorandum for Chief W
[Handwritten] Pay regulations

¹ The employment of concentration camp inmates by the I.G. Farben concern was one of the principal charges in the indictment in the case of *United States vs. Carl Krauch et al.*, vol. VII and VIII.

² Carl Krauch, chairman of the supervisory board of directors, I. G. Farbenindustrie, Plenipotentiary General for Special Questions of Chemical Production on Goering's staff in the Office of the Four Year Plan. Defendant in case of *United States vs. Carl Krauch, et al.*, vols. VII and VIII.

Subject: Camp regulations for prisoners.

Today when I reported to the chief of the Main Office he informed me for the first time that he wishes to have camp regulations drawn up which at present the chief of Amtsgruppe D, and SS Obersturmbannfuehrer Maurer are working out.

These camp regulations are to contain among others—

- a. The amount to be fixed as pay for prisoners.
- b. The proportion of this pay which must go to the Reich (until now called prisoner's recompense).
- c. Which pay must be left to the prisoner (for instance also to the female prisoners who are employed as domestic servants).
- d. Which premiums must be paid to the prisoners, etc.
- e. How much outside firms have to pay to the Reich for being provided with prisoners.
- f. How much their own plants have to pay for being provided with prisoners.
- g. Whether social funds ought to be established for prisoners.
- h. Whether a special bonus could be granted on the quiet.

The chief of the Main Office emphasized that he does not aim at letting the entire amount paid by the employer for the prisoner go to the Reich, but that part of it could serve other purposes.

Besides, preliminary work was done concerning these camp regulations in form of single ordinances, which have been already issued, should later be incorporated into the camp regulations. Same applies to the pay regulations of 7 February 1944 for prisoners in protective custody.

The chief of the Main Office ordered that I, in my capacity as Chief W, have to participate in the work to draw up the camp regulations. In addition, Oberfuehrer Loerner and Oberfuehrer Dr. Salpeter have to be consulted.

The Chief W
[Signed] BAIER
SS Oberfuehrer

TRANSLATION OF DOCUMENT NI-638
PROSECUTION EXHIBIT 372

CIRCULAR LETTER FROM SPEER MINISTRY, 9 OCTOBER 1944, CONCERNING THE HANDLING OF REQUESTS FOR CONCENTRATION CAMP INMATES, WITH ENCLOSED APPLICATION FORM

The Reich Minister for Armament and War Production
Armaments Office, Allocation of Labor
File No. 460

[Stamp] For the files
[Stamp] received: November 1944
Express Letter
Berlin NW 7, 9 October 1944
Unter den Linden 38
Telephone 11 47 40

To:

1. Chairmen of the Armaments Commissions
2. Armaments Inspectors and Chiefs
3. Chiefs of Main Committees—Syndicates and Production Committees, with extra copies to special committees and syndicates.
4. Reich Association Iron *
5. Plenipotentiary General for Labor
6. SS Economic and Administrative Main Office
7. Distributor A 1

Subject: Requests for allocation and employment of concentration camp inmates.

All applications now under review for the allocation of male or female concentration camp detainee-labor are hereby declared void. The only exceptions are applications already submitted to the SS Economic Administrative Main Office, which have in the meantime been partly complied with. If possible they will be completed so as to meet the applicants' requirements.

New applications for allocation of male or female concentration camp detainees are to be in triplicate as per the enclosed model and forwarded exclusively to the Reich Minister for Armament and War Production, Unter den Linden 38, for attention of Major v.d.Osten, telephone 11 47 40. Applications must previously be checked with the competent labor offices or Gau labor offices in order to avoid duplication of requests for labor, (concentration camp detainees and free workers) right from the beginning. Newly received applications will be examined in collaboration with the Plenipotentiary General for the Allocation of Labor as to their justification and urgency, and will be forwarded to the SS Economic and Administrative Main Office by courier. Subsequently, the SS Economic and Administrative Main Office will send a representative to the applicants to examine conditions with a view to separate employment and escape-proof housing. Given these conditions, the requested labor will be allocated, subject to availability.

To ensure orderly proceedings and speedier completion, it is

* Reich Association Iron (Reichsvereinigung Eisen, abbreviated RVE). See cases United States vs. Friedrich Flick, *et al.*, vol. VI, and United States vs. Alfried Krupp, *et al.*, vol. IX.

not permissible under any circumstances to communicate direct with the SS offices.

Model for express letter Armaments Office, Employment of Labor, File No. 460 of 9 October 1944.

Subject: Armament section—employment of concentration camp inmates or building section.

1. Applicant:
 2. Competent specialist:
Telephone:
 3. Work to be carried out:
 4. Number of detainees required:
 - a. Men
 - b. Women
 5. Housing:
- Armaments Office 277

TRANSLATION OF DOCUMENT NO-395
PROSECUTION EXHIBIT 374

LETTER FROM COMMANDER OF CONCENTRATION CAMP FLOSSEN-
BUERG, 1 JANUARY 1945, TRANSMITTING PRODUCTION STATE-
MENTS OF SS AND PRIVATE ENTERPRISES TO OFFICE D II OF WVHA

Waffen SS

Command Post Allocation of Labor
Concentration Camp Flossenbuerg
File No. 14 (KL) D II 32/ 6/Be

Flossenbuerg, 1 January 1945

To SS Economic Administrative Main Office
Amt D II
Oranienburg

Subject: Production statement.

Reference: Order H.H.u.B. 28 September 1940

Enclosures: 87

The commander—Allocation of Labor—concentration camp Flossenbuerg hereby transmits:

1 FN 734	Deutsche Kuehl- und Kraft- masch	Wilischthal	RM	18,338
1 FN 734a	Deutsche Kuehl- und Kraft- masch	Wilischthal	RM	404
1 FN 735	Bauleitung der Waffen SS u. Polizei	Dresden	RM	15,683
1 FN 736	Bauleitung der Waffen SS u. Polizei	Grafenreuth	RM	4,395
1 FN 737	Bauleitung der Waffen SS u. Polizei	Hradischko	RM	44,164

1 FN 738	SS Sturmgeschuetzschule....	Janowitz	RM	18,472
1 FN 739	Bauleitung d. Waffen SS u. Polizei	Neurohlau	RM	4,311
1 FN 740	Bauleitung d. Waffen SS u. Polizei	Nuernberg	RM	2,881
1 FN 741	Bauleitung d. Waffen SS u. Polizei	Pottenstein	RM	15,558
1 FN 742	Bauleitung d. Waffen SS u. Polizei	Seifhe'dorf	RM	3,436
1 FN 743	Bauleitung d. Waffen SS u. Polizei	Flossenbuerg ...	RM	15,554
1 FN 744	Bauleitung d. Waffen SS u. Polizei	Wuerzburg	RM	6,515
1 FN 745	Bauleitung Kommando B 7..	Hersbruck	RM	293,836
1 FN 746	Bauleitung Kommando B 5..	Lobositz 2.....	RM	482,574
1 FN 747	Schwalbe II.....	Koenigstein	RM	102,988
1 FN 748	OT-Bauleitung	Saal-Donau	RM	20,389
1 FN 749	Messerschmitt A.G.....	Flossenbuerg ...	RM	377,656.50
1 FN 749a	Messerschmitt A.G.....	Flossenbuerg ...	RM	92,441.50
1 FN 750	Messerschmitt A.G.....	Flossenbuerg ...	RM	4,621.75
1 FN 751	Messerschmitt A.G.....	Flossenbuerg ...	RM	47,960.50
1 FN 751a	Messerschmitt A.G.....	Flossenbuerg ...	RM	10,158.50
1 FN 752	Aussendienststelle	Flossenbuerg ...	RM	6,080.25
1 FN 753	Weberei	Flossenbuerg ...	RM	1,785
1 FN 754	Keramische Werke A.G. Bohe- mia	Neurohlau	RM	4,649
1 FN 755	Erla-Maschinenwerk G.m.b.H.	J'georgenstadt ..	RM	108,368
1 FN 756	Erla-Maschinenwerk (Lehr- linge) 7.....	J'georgenstadt ..	RM	6,634
1 FN 757	Forschungsstelle	Bayreuth	RM	8,510
1 FN 758	Dr. Th. Horn, G.m.b.H.....	Plauen i.V.....	RM	5,144
1 FN 759	Fortuna G.m.b.H.....	Floeha	RM	85,785
1 FN 760	Mitteldeutsche Stahlwerke A.G.	Groeditz	RM	59,762
1 FN 761	Metallwerke	Holleischen	RM	26,832
1 FN 762	Lengwerke A.G.....	Lengfeld	RM	89,800
1 FN 763	SS-Fuehrungsstab, B. 5....	Nossen	RM	32,542
1 FN 764	Luftwaffennachschublager ..	Gundelsdorf ...	RM	4,738
1 FN 765	Erla-Maschinenwerk G.m.b.H.	Muelsen	RM	76,932
1 FN 766	"Weser"	Rabstein	RM	72,684
1 FN 767	Auto-Union A.G.....	Siegmar	RM	57,464
1 FN 768	A. Schulze jr.....	St. Georgenthal ..	RM	4,246
1 FN 769	Miag	Zschachwitz	RM	122,859
1 FN 770	Miag	Zschachwitz	RM	666
1 FN 771	Auto-Union A.G., Werk Horch	Zwickau	RM	115,038
1 FN 772	Elsabe (report missing, will be sent later).....		RM	
1 FN 773	Bernsdorf & Co.....	Dresden	RM	616
1 FN 773a	Bernsdorf & Co.....	Dresden	RM	88
1 FN 774	Bernsdorf & Co.....	Dresden	RM	25,025
1 FN 775	Bernsdorf & Co.....	Dresden	RM	3,580
1 FN 776	SS Bekleidungswerk.....	Grafenreuth ...	RM	6,138
1 FN 777	Hauptamt C I.....	Lobositz	RM	2,160

1 FN 778	SS Nachr. - Ausb. (Eichstaedt)	Nuernberg	RM	1,566
1 FN 779	SS Nachr. - Ausb. (Pottenstein)	Nuernberg	RM	1,404
1 FN 780	SS Kleiderkasse.....	Schleckenwerth	RM	11,104
1 FN 781	SS Hauptzeugamt.....	Moschendorf	RM	13,182
1 FN 782	R.A.W.	Dresden	RM	74,998
1 FN 783	SS Unterkunfts-lager.....	Poschetzau	RM	2,436
1 FN 784	Reichsausbildungslager (missing)	Aue		
1 FN 785	Hotel Glasstuben.....	Steinschoenau	RM	6,862
1 FN 786	Karl Schreyer.....	St. Oetzen.....	RM	280
1 FN 787	"Bohemia" A.G. (Me.).....	Neurohlau	RM	13,596
1 FN 788	"Bohemia" A.G. (Porzellan).	Neurohlau	RM	18,284
1 FN 789	Astra-Werk, A.G.....	Chemnitz	RM	47,180
1 FN 790	Zeiss-Ikon, Goehle-Werk.....	Dresden	RM	58,784
1 FN 791	Zeiss-Ikon, Reick-Werk.....	Dresden	RM	19,540
1 FN 792	Universelle Maschinenfabrik.	Dresden	RM	46,416
1 FN 793	Bernsdorf & Co.....	Dresden	RM	32,024
1 FN 794	Bernsdorf & Co.....	Dresden	RM	4,508
1 FN 795	Froea, G.m.b.H.	Freiberg	RM	99,000
1 FN 796	Luftfahrtgeraetewerk	Graslitz	RM	43,788
1 FN 797	Luftwaffennachschublager ..	Gundelsdorf	RM	8,986
1 FN 798	Framo-Werke	Hainichen	RM	42,528
1 FN 799	Josef Witt.....	Helmbrechts	RM	38,838
1 FN 800	Hertine, G.m.b.H.....	Hertine	RM	55,388
1 FN 801	Metallwerke	Holleischen	RM	61,430
1 FN 802	Lorenz A.G.....	Mittweida	RM	48,540
1 FN 803	Siemens - Schuckert - Werke, A.G.	Nuernberg	RM	52,004
1 FN 804	Deutsche Kuehl- u. Kraftmasch	G.m.b.H. Oederan	RM	46,380
1 FN 805	Baumwollspinnerei	Plauen	RM	19,964
1 FN 806	Industriewerke, A.G.....	Plauen	RM	28,664
1 FN 807	Mechanik, G.m.b.H.....	Rochlitz	RM	28,568
1 FN 808	"Vomag"	Zehltheuer	RM	18,216
1 FN 809	Deutsche Kuehl- u. Kraftmasch	Wilischthal	RM	27,260
1 FN 810	Opta-Radio A.G.....	Wolkenburg	RM	34,812
1 FN 811	Luftfahrtgeraetewerk Hakenfelde	Zwodau	RM	77,400
1 FN 812	Auto-Union, A.G. D.K.W.-Werke	Zschopau	RM	46,012
1 FN 813	Wiedemann & Co.....	Knellendorf	RM	1,272
1 FN 699	SS Fuehrungsstab B 5.....	Nossen	RM	21,178

[Total] RM 3,673,965

1 table of employment of inmates during December 1944.

1 table of inmates not accounted for.

The Camp Commander CC Flossenbuerg

[Signed] KOEGEL

SS Obersturmbannfuhrer

EXTRACT FROM TESTIMONY OF DEFENDANT POHL *

DIRECT EXAMINATION

* * * * *

DR. SEIDL (counsel for defendant Pohl): Now I turn to the question of labor allocation, and in this connection I shall put a few questions to you which are contained in document book II.

First of all, a general question. Who in the concentration camp was responsible for the labor allocation of the inmates and what was the agency, which directed the labor allocation centrally, as far as it concerned inmate labor or in economic enterprises?

DEFENDANT POHL: Approximately in the middle of 1942 I ordered the following changes in the allocation of labor. In each camp a labor allocation labor leader was appointed. He was part of the staff of the camp commandant, was his consultant for the questions of labor allocation, and received his orders from the camp commandant. The camp commandant, in turn, received his orders from office D II, in office group D, Inspectorate of Concentration Camps, which was under the direction of Standartenfuehrer Maurer.

Q. Where were the business relations in the questions of camp inmate labor between you, yourself, as the chief of WVHA, the chief of Amstgruppe D or his expert, Standartenfuehrer Maurer?

A. Applications from armament enterprises, including the supply of labor, were prepared in office D II, and this is how it worked. The enterprises would apply either to the camp commandant directly or to the office D II—it depended on their connections and on their situation. The camp commandant then had to visit the enterprise and discuss with the manager questions of billeting, feeding, and medical welfare of the laborers. In this respect he had to report to the office D II; office D II then would discuss these applications with the armament ministry and would receive a certificate confirming the necessity of the particular allocation. The applications having thus been prepared, Gluecks, usually accompanied by Maurer, would see me about once a week, submit the applications to me, and I approved them. Only then would the camp commandant, through office D II, receive the order to furnish the inmates.

Q. You stated that the enterprises either addressed the camp or the Inspectorate of Concentration Camps. Was it not the case very frequently, or was it not even the rule that enterprises would apply to the labor office concerned, the Regional Labor Office, which would then pass on the applications to the Ministry

* Complete testimony is recorded in mimeographed transcript, 16, 19-23, 27-29 May; 2, 3 June; 25 August 1947; pp. 1253-2040; 6759-6786.

of Labor; and that the required number of workers would then reach the Inspectorate?

A. That might have happened, yes, and later on there was a regulation in this respect, but, it was not the normal procedure nor was it ordered for us to do so in 1942.

Q. What other Reich agencies were concerned with regulations concerning labor allocation?

A. We only dealt with the Armament Ministry.

PRESIDING JUDGE TOMS: Did you also supply the Luftwaffe?

DEFENDANT POHL: We also furnished labor to the Luftwaffe, to all armament works.

Q. Including the Luftwaffe?

A. Yes.

Q. When Maurer and Gluecks came to see you, did you sign the order allocating labor to the various industries?

A. The applications were submitted to me—a list of applications of how many inmates would be needed—and I approved them by initialing them.

Q. And then Maurer and Gluecks carried out your instructions as indicated on the list?

A. Yes, quite.

DR. SEIDL: Some of the concentration camp inmates were not employed in the SS enterprises, but in private industry. I would like to ask you who worked on this up to a point, to whom would a manager of a private factory apply when he needed labor?

DEFENDANT POHL: I said before either to the camp commandant or to office D II, office group [division] D, directly. That depended where the enterprise was located. If the camp was near an enterprise, the owner of the enterprise would apply directly to the camp commandant and he saw to it that the application would reach office D II.

Q. Did the private industry have any particular interest in employing inmates because there was a different wage scale, or what were the reasons, generally speaking, why a private enterprise would apply for labor consisting of camp inmates?

A. The essential motive for private industry was exclusively the shortage of labor manpower, not the wage scale, because private enterprises had to pay the same wages to the Reich as they had to pay for their other workers, their civilian labor. It depended on what sort of work the inmates would do—their wages as skilled laborers, assistant laborers, or as unskilled laborers—but the actual wage scale was the same.

Q. What was the position of the chief of office group [division] C, that is to say, Kammler and his special staff, with regard to labor by inmates, and who issued orders to Kammler?

A. As far as labor allocation was concerned, Kammler's position in the special staff was the same as the head of an enterprise, that is to say, for those tasks he had to obtain labor for these things in just the same way as the head of any other enterprise. The rule was that he would negotiate with Gluecks directly, and as he carried out exclusively Reich tasks, these workers were put at his disposal every time.

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EXTRACTS FROM TESTIMONY OF DEFENDANT SOMMER *

DIRECT EXAMINATION

* * * * *

DR. BELZER (counsel for defendant Sommer) : Will you please describe to the Tribunal briefly the official procedure when a firm requested a certain number of inmates?

DEFENDANT SOMMER: Originally, that is, up to May or June 1944 the procedure which was followed was about the following: If any firm needed any inmates, it would write to the commander of a concentration camp or it would write to office D II in the WVHA. There it would request that these inmates should be furnished. If the commander of a concentration camp received such a request, then without having worked on it and without any notification to the firm, he had to pass it on to office D II. Whenever inmates were available, then the chief of office D II Maurer, personally went to see the firm. He would call the competent camp commander for a conference, and then he would discuss with that firm the intended assignment of inmates. He told the firm under what prerequisites inmates would be furnished for labor assignment. If the firm was able and ready to meet the necessary prerequisites—that is to say, to prepare security measures, accommodations, and so on—then Maurer would return to Berlin. He made a report then to Pohl. If Pohl agreed to this assignment of inmates, then the camp commander would receive the appropriate order. The firm was notified, and then it had to make the necessary preparations. As soon as the preparations had been completed, the inmates were furnished for labor. In the meantime the firm had to make the formal application which I mentioned through the camp commander, and had to submit it to office D II. In the case of the economic enterprises, the procedure was in general that the plant manager would channel the request of the firms only to the camp commander who, at the same time,

* Complete testimony is recorded in mimeographed transcript, 30 June, 1, 2 July 1947; pp. 3653-3878.

was the director of the enterprises; then the matter would be submitted to D II. From May or June 1944, all requests of the firms were exclusively, or almost exclusively channeled through the agency of labor assignment in the Speer Ministry. The Speer Ministry made the requests for inmates deal with the plenipotentiary for labor assignment, and would examine the priority of the matter, and then would pass on these requests to office D II. D II then notified the competent camp commander, and he in turn would establish contact with the firm, and then the matter was handled in exactly the same way as I have already described. In this connection I would like to refer briefly to Document NO-1975, which is in document book 13 and was presented as Prosecution Exhibit 363. It is on page 76 of the English document book. In the index of this document it is stated that this is a letter from the office D II in the WVHA to the firm ATG in Leipzig. That is not correct. The letter is from the headquarters of the concentration camp Buchenwald, and it is addressed to the firm ATG. Buchenwald states in that letter that the WVHA had informed Buchenwald of the fact that the firm ATG intended to employ inmates, and Buchenwald was to submit an appropriate report to D II. That is part of the procedure which I have previously mentioned.

Q. Witness, of what did your own activity consist in this entire procedure?

A. I had to deal administratively with all matters which were connected with the labor assignment of inmates. That is to say, when such a report arrived from a camp commander, then I had to include the applicant in the list which was submitted to Pohl. After Pohl had made his decision, I had to dictate letters to the camps and to the firms concerned. I had then to submit them to Maurer for his signature. I have already stated that later on I had to handle the courier service between our agency and the Speer Ministry. Then I constantly had a plan of the trips of Maurer whenever he was away on a trip. When I received a request from a firm, and Maurer was in the vicinity of that firm, then I would send a teletype to him to visit that particular firm. Then I had to see that the formal requests arrived. That is to say, I had to deal with all work in the office which was connected with the labor assignment of inmates. I did not have any authority, and I could not make my own decisions in these matters.

Q. Witness, in your affidavit of 22 January 1947 (*Document NO-1578, Prosecution Exhibit 13*), document book 1, you state, "I was a member of office D II of the WVHA, and in a certain way I had the task of an office chief. Standartenfuehrer Maurer was the office chief of D II. In the end I was Maurer's collaborator,

and at the end of 1943 I became his deputy." I want to ask you the following question now: Does your own statement allow to consider you the deputy chief of office D II?

A. Not in my opinion, no. In my pretrial interrogation I have stated in detail what brought about my appointment as deputy of Maurer. The situation was as follows: At the end of 1942 or early in 1943 Maurer told me one day that on the occasion of a conference in the WVHA there had been a lot of arguments and a big dispute because a civilian employee of an economic enterprise who, in the absence of his office chief, had participated in that conference and could not give any information about a certain matter. Pohl had been so enraged about this matter that he saw to it that this man was immediately conscripted as a soldier and transferred. Therefore, he considered it appropriate to appoint a deputy. As his deputy in his absence I constantly had to be present in the office so that whenever Pohl called, somebody would be there who could provide him with the necessary information about the labor assignment of inmates. That is what brought about my appointment as the deputy of Maurer. However, I have never been his deputy chief of office, and I have never had any authority to make my own decisions in any matter which was concerned with the labor assignment of inmates.

* * * * *

Q. Witness, what do you know about measures to supplement the food of the inmates?

A. I know that the concentration camps were ordered during the summertime to collect mushrooms, berries, and wild vegetables and that Jehovah's Witnesses who were inmates were to be used for that purpose. There was also an order that all the bare spaces in the concentration camps were to be used for the growing of vegetables to be used as food for the inmates. As far as I know, in the post exchanges in the camps, groceries could also be purchased.

PRESIDING JUDGE TOMS: What would they be purchased with—the wages of the inmates?

DEFENDANT SOMMER: Well, they could buy goods in the post exchanges.

Q. What would they use for money?

A. The inmates, after all, received certain working bonuses in camp money, so to speak.

Q. And those were the only people who could buy at the post exchanges, the people who by working harder than the others got coupons or bonuses?

A. Your Honor, may I correct that the working bonuses were not paid only to inmates who did more work than others, but they

were paid for all the work that was done. I shall refer to the system of bonuses a little later, your Honor. May I ask you to put aside this subject until that time?

DR. BELZER: I am just about to ask this question, your Honor.

Witness, the former inmate who has testified here as a witness, the writer, Eugen Kogon, states in his book, "The SS State" on page 69: "Probably with a reasonable working system, if it had been carried out on a humane basis, twice or three times the amount of work could have been carried out with one-fifth the number of workers that was actually used for this work."

I now want to ask you, Witness, whether there was an inducement for inmates to work at all, which Kogon missed, and what did this inducement consist of?

DEFENDANT SOMMER: This inducement did exist. It consisted mainly of the working bonuses and a special reward for suggestions for improvement with regard to the plants, and it could result in the release of an inmate from the concentration camp.

Q. Please give us a short description of the bonuses.

A. From my knowledge and from my activity with the DEST I can state on this subject that the inmates originally received cigarettes and additional food. From the beginning of 1942 on they received cash funds. The plant manager had to pay this money to the inmates in the presence of the commander. This procedure was very complicated, and a so-called payroll was worked out. That is to say, the inmate received only a small paper script, and he could exchange that at the inmate finance office against standard currency. I know from activity with office D II that the working bonuses were introduced and that for these bonuses the inmate could make purchases in the post exchange. Originally it had been intended to pay these bonuses in cash. However, as far as I can recall, Gluecks refused to comply with this measure. He asked that camp script be introduced, so that it would become more difficult for inmates to escape and to make it impossible for the inmates to carry on black market deals with civilians and others for tobacco goods.

The principle of these bonuses was approximately the following: The firm had to pay a certain sum to the Reich. That is, it had to pay the sum which corresponded to the expenses which the Reich had for the inmates. However, above that, it was to have payrolls, and it was to figure out the pay which was due to the inmates. The difference between the payment to the Reich and wages which the inmates had earned was to be paid to the inmates themselves.

Especially with regard to Kogon's opinion, I would like to quote from the book of Weissruettel briefly, and I want to give the

opinion of Weissruettel about these things. In his book he states on page 121:

“Toward the end of the year 1943 the agency and the labor assignment system which in the meantime had become an extensive and efficient agency, developed working coupons. They were issued to the inmates, and they were worth a maximum of RM 40. They were issued monthly. Of course, this system offered an inducement to the inmates that could not be underestimated. Even if the amount did not correspond at all to the achievement, the conditions under which we had to live still induced us to try to obtain these coupons, in particular since we were able to buy cigarettes only by means of these coupons. Now, we could also get some malt beer that was free of alcohol and which tasted better than the bitter camp coffee, and in many of us it awakened the illusion of a certain luxury. With these coupons we were also able to do without money orders from home. If we consider all these improvements, one might think that suddenly humanity had opened its gate to us in order to compensate us with a flood of good deeds for everything that we had suffered in the past.”

He then goes on to say, on page 132:

“With the exception of food, all objects which were sold here came from the booty stocks of the SS, mainly the cigarettes and tobacco, and there were usually very large amounts on hand.”

Q. Witness, you have already answered one question. You have already stated in answering a question by the president that the bonuses were not paid only because inmates worked more than some of the other inmates, but for good work.

A. Beyond that, they were also issued to the inmates as a reward for suggestions that the inmates made for improvements in the plants. In this connection, I would like to state that the camps had to submit a report every month on just how many bonuses the firms had paid to the inmates. These figures were handled by the office D II/3, and they were submitted constantly to the office chief. I know that initially, Maurer very often brought them to the commanders and asked them to carry on negotiations with the firms so that these bonuses would be increased.

Q. Witness, the President of this Court has been justified in asking you a certain question. I want you to clarify it now. Was the issuance of bonuses limited to the inmates who worked in the industries, or were coupons also issued to inmates who worked only in the camps proper?

A. It was stated explicitly that all the inmates were to receive the bonus coupons. The inmates who were working in the camps

received these bonuses from the Reich Treasury. Responsible for the expenditure here was the administrative officer of that particular concentration camp.

* * * * *

TRANSLATION OF DOCUMENT SOMMER A/13
SOMMER DEFENSE EXHIBIT 13

AFFIDAVIT OF WALTHER SCHIEBER, CHIEF OF OFFICE FOR DELIVERY OF ARMAMENT MATERIEL, 11 JANUARY 1947, CONCERNING NEGOTIATIONS ABOUT USE OF PRISONERS IN ARMAMENT INDUSTRY

Copy

Walther Schieber

Nuernberg, 11 January 1947
Palace of Justice

AFFIDAVIT

I know that this affidavit is required for submission to a court. I also know that anyone who makes a false statement on oath is liable to a legal penalty.

As requested I give the following information on oath concerning the official position of Herr Karl Sommer, formerly with the SS Economic and Administrative Main Office.

On the instructions of Reich Minister Speer I discussed, as chief of the office for delivery of armament matériel for this branch of industrial production, a few times with Maurer the SS Sturmbannfuhrer concerned, concerning the utilization of prisoners in the armament industry after Maurer had personally informed Minister Speer that he, under the direct orders of Obergruppenfuhrer Pohl, was the competent official for the utilization of prisoners in collaboration with Gruppenfuhrer Gluecks. At one of these meetings I became acquainted with Herr Sommer as a colleague of Herr Maurer. Sommer also answered some telephone calls from Maurer's office. On such occasions, Sommer received the instructions of Speer's Ministry if Herr Maurer was not present, but he always insisted that only Herr Maurer or Herr Gluecks could make a decision as he had no authority whatever to make decisions himself.

I do not know whether Herr Maurer and Herr Gluecks, in addition to the utilization of prisoners in the industry, were also competent for the internal utilization of prisoners by the SS or whether Herr Sommer was, in this sphere too, a co-worker of Herr Maurer, not entitled to decide anything.

[Signed] WALTHER SCHIEBER

TRANSLATION OF DOCUMENT SOMMER A/I
SOMMER DEFENSE EXHIBIT 2

EXTRACTS FROM AFFIDAVIT OF GERHARD MAURER, CHIEF OF
OFFICE D II OF WVHA, 22 MAY 1947, ON ORGANIZATION OF
THAT OFFICE AND SOMMER'S POSITION IN IT

Copy

AFFIDAVIT

I, Gerhard Maurer, born on 9 December 1907 in Halle on Saale, at present in the Military Prison Nuernberg, last position Standardenfuhrer of the Waffen SS, after having been warned that I am liable to punishment if I make a false affidavit state and declare that my affidavit is true and my statement shall be presented as evidence to the Military Tribunal II, Case 4, Palace of Justice, Nuernberg, Germany:

It has been pointed out to me that I need make no statements which could be used in evidence against me.

Ad rem:

[1.] I met the defendant Karl Sommer on the occasion of a visit which the defendant Mummenthey made to me in Oranienburg in my capacity as office chief of the office D II in the Economic and Administrative Main Office (WVHA). It is possible that this visit of Mummenthey with Sommer took place in Berlin in March 1942 in the offices of the WVHA. At this time, of course, I was not office chief of the office D II, yet. Mummenthey was then chief of W I, Sommer was accompanied by Mummenthey. At that time Sommer was a civilian employee of the Deutsche Erd- und Steinwerke (DEST). At this visit I learned that Sommer was concerned with questions of labor allocation [Arbeitseinsatz] at the DEST. When I was appointed chief of office D II, I remembered Sommer and asked Mummenthey on the phone to assign Sommer to me to office D II. Mummenthey consented. I consider it possible that Mummenthey sent Sommer to me by reason of this telephone conversation between Mummenthey and myself. I no longer remember any details.

2. Sommer came first of all as a civilian employee to the office D II, while his salary continued to be paid by office W I until the circumstances of his remuneration were put in order on transfer to the Waffen SS. I cannot say today whether I explained to Sommer before he entered the office D II or until afterwards, that his employment as civilian employee in the office D II was not possible, and that I had therefore arranged for his transfer from the Wehrmacht to the Waffen SS after consultation with Gluecks. Sommer was a specialized official for the labor allocation of pris-

oners in office D II. Besides Sommer I had two other specialized officials, one for statistics and one for the training of prisoners. Since the question of training for prisoners did not play a very important part, the task "training of prisoners" disappeared and very soon the number of specialized officials decreased to two.

3. I was chief of office D II from 1 April 1942 until 15 January 1945. On 15 January 1945 I joined the services as supply chief [Korps Intendant] of the army corps z.V. [at disposal]. On 17 January 1945 I returned to office group [division] D on Pohl's orders. The office D II practically did not exist any more by this time since all connections with the outside concentration camps were severed. I do not know why Pohl ordered me back to office group D.

4. After me, Sommer was the highest ranking SS leader in office D II. From that it can be deduced that Sommer was my first co-worker. Since I spent much time on official trips it was Sommer's job to see to internal order and regulation of the work in office D II. In fundamental questions of labor allocation of prisoners, Sommer could not make any kind of decision. Even I myself could approve the assignment of prisoners only with special permission of Pohl and in the case of very small units which were planned to exist for only a short time.

I had to inform Pohl every time of an approval given by me. On principle the person competent for the assignment of prisoners for labor allocation was the office group [division] chief or, and predominantly, the chief of the Main Office himself.

5. The incoming post came to Gluecks on arrival. Insofar as incoming mail concerned the labor allocation, it was given to D II where it was submitted to me by Sommer. If I was on an official trip Sommer submitted it to me after my return. Secret [top] Reich matters and top secret (military) matters, so far as such were delivered to office D II at all, had to be given to me by Sommer in sealed envelopes. But I expressly add that I do not remember receiving any [top] secret Reich matters myself. I certainly did not receive top secret (military) matters.

6. Sommer did not take part in commandant conferences. I myself took part in these conferences only insofar as questions of labor allocation were concerned. It is possible that Pister visited me in my office.

7. It was rendered necessary that Gluecks and I went to Pohl on an average once a week for the purpose of discussing the current applications for assignment of prisoners, by the fact that Pohl gave instructions that all applications for assignment of prisoners had to be submitted to him for personal decision. Sommer was never present at these conferences with Pohl.

8. Office chief conferences never took place with Gluecks. Each office chief put his business directly before the chief of the office group [division].

9. The individual offices of the office group D were administratively connected with each other only through the person of the chief of the office group. Officially the offices, as such, had nothing to do with each other. By the fact that I had to visit—on Pohl's orders—the armament works which employed prisoners it happened that questions which did not concern the labor allocation, for instance questions of clothing also, were put to me. In these cases I reported directly to Gluecks and Pohl and also informed in addition the office chief D IV—in the case in question—or the office chief otherwise competent.

10. From the day he entered D II until the end of the war Sommer worked in the office D II without interruption. He was not even temporarily detailed to Auschwitz as labor allocation leader [Arbeitseinsatzfuehrer]. In office D II one of us always had to be present. A simultaneous absence of both of us was limited to one day at the most and then it was a matter of participation in conferences of labor allocation leaders.

11. The labor allocation leader in Auschwitz was at first Heiner Schwarz. His successor was his former co-worker Sell.

12. I remember that there was once a conference of labor allocation leaders in Auschwitz in which Sommer participated for one day. As far as I remember Sommer arrived in Auschwitz in the morning and drove back to Oranienburg with me in the evening. During the whole of this day, Sommer was near me all the time.

Apart from that I only know that Sommer brought his wife to Auschwitz to Professor Clauberg. I know nothing of any other visits of Sommer to Auschwitz.

13. To enter the prospective custody camp in a concentration camp Sommer needed the permission of the camp commandant.

But even in this case Sommer could not enter the camp alone but had an escort from the camp commandant with the exception of the watchmakers' workshop in Sachsenhausen.

14. If Sommer went on official trips alone, such cases could be counted on the fingers of one hand. In any such case he always had special instructions from Gluecks or myself. I cannot remember details of an official trip of Sommer to Duesseldorf, neither can I remember whether Sommer was in Ohrdruf in connection with the building projects S III. If Sommer was there it can only have been a question of acquainting the labor allocation leader Eilers with his duties.

15. It is correct that I had entrusted Sommer for some time

with the supervision of the watchmakers' repair workshop in Sachsenhausen. The leader of this watchmakers' workshop had to have someone to whom he could turn, for example, when he needed materials or workers. So Sommer was appointed for this purpose. Sommer forwarded the requirements of the leader of the watchmakers' workshop, Peters, to the competent offices. The watches were delivered from the "Action Reinhardt." The "Action Reinhardt" had something to do with confiscated enemy property.

All closer details are unknown to me. If the prosecution asserts that Sommer knew that in the case of the watches delivered to Sachsenhausen for repair, watches of annihilated Jews were concerned, I can only add hereto that I do not know anything about that. I can, however, remember that once on Melmer's orders, watches were delivered to Sachsenhausen, which were brought in by Moeckel who was a member of the camp's staff at Auschwitz. I did not know from which previous owners these watches came, and I do not know it today either.

* * * * *

26. The last rank reached by Sommer was the rank of Hauptsturmfuehrer. Sommer cannot be called deputy office chief for the reason alone that he had no authority to decide matters. Even the term "deputy" goes too far in my opinion. Sommer acted as my representative insofar as he received telephone calls for the office D II, wishes and requests for allocation of prisoners in my absence. After my return, Sommer had to report to me on these matters. In case the matter could not be delayed until I had returned, Sommer had to ask for the decision of the Office Group Chief Gluecks. I cannot remember that Sommer signed a single document leaving the office D II. In case such a thing should have happened in spite of this, then only a matter of minor importance, in no case problems of working assignments can have been concerned.

The plan of organization of the WVHA which was shown to me and which under the date of 18 March 1947 was approved by Pohl as correct (*NO-2672, Prosecution Exhibit 36*) is wrong as far as the passage office D II is concerned, saying "Deputy Sturmbannfuehrer Sommer." Sommer's rank was not Sturmbannfuehrer. As far as the authority for deputizing is concerned, I should like to refer to my above statement.

* * * * *

Nuernberg, 22 May 1947

[Signed] GERHARD MAURER

TRANSLATION OF DOCUMENT POHL 16
POHL DEFENSE EXHIBIT 15

AFFIDAVIT OF GERHARD MAURER, OF WVHA, 3 JULY 1947, CONCERNING ASSIGNMENT OF CONCENTRATION CAMP PRISONERS TO OUTSIDE ENTERPRISES

AFFIDAVIT

I, Gerhard Maurer, born 9 December 1907 in Halle on Saale, and last Standartenfuehrer in the Waffen SS, at present in the prison in Nuernberg, have been informed that I am liable for punishment if I submit a false statement under oath. Having been informed that my statement is to be introduced as evidence before the Military Tribunal in Nuernberg, Germany, I declare the following under oath:

1. After having been section chief of office A III, Main Office Administration and Economy, and in this capacity chief of the bookkeeping department and co-manager of the DEST (Deutsche Erd- und Steinwerke G.m.b.H.), I became office chief III C and manager of the DAW (Deutsche Ausruestungswerke G.m.b.H.). I held this job until approximately July 1941. From July 1941 until March 1942 I was plant inspector of the W-works, a member of the staff of Obergruppenfuehrer Pohl. Obergruppenfuehrer Pohl assigned to me the job of inspecting the economic plants and to report about the result of my inspections.

The reason for being given this task was, that Obergruppenfuehrer Pohl, who was overburdened with work could not, as he used to do, inspect these plants himself anymore.

2. By order of the Reich Leader SS, dated 3 March 1942, which went into effect, as far as I remember, on 1 May 1942, the Inspectorate of the Concentration Camps was attached as group D to the Main Office Economy and Administration. The Inspectorate of the Concentration Camps was up to this time part of the SS Operational Main Office. The reason for this reorganization was the intention to direct the work of the inmates from one ministerial authority. This task was given to the chief of the WVHA by the Reich Leader SS. I was therefore put in charge of office D II by Pohl and became expert for labor problems in the Amtsgruppe D (Inspectorate of the Concentration Camps). By order of Reich Leader SS Himmler, and because of the development on the labor market, the prisoners in the course of time were also employed in the W-plants, construction works, and finally in private industry.

3. In my capacity as chief of the office D II, I was in charge of incoming applications for the assignment of workers and I had to report to the Inspector for the Concentration Camps (Amtsgrup-

penchef D). Normally once a week Gruppenfuehrer Gluecks and myself went to Berlin to Obergruppenfuehrer Pohl of the WVHA in order to learn about his decisions regarding the applications. This conference took normally half an hour. I cannot remember that in these conferences anything but the assignment of labor was discussed.

4. Obergruppenfuehrer Pohl received from Amt D II in regular intervals, lists about labor assignments of prisoners which showed numbers and places of work of these. Furthermore, the number of non-assigned prisoners would be seen from these lists; also the type of their work, vocationally classified, could be learned from these reports. However, these lists did not show the different nationalities nor the reason why any of those people had been imprisoned. The compilations were made up exclusively for the needs of the administration of labor assignment.

Furthermore, Obergruppenfuehrer Pohl received reports from Amtsgruppe D about the total work hours for the economy, the pay the prisoners earned, and reports about work assignments in industry with figures of prisoners employed. Statements about type of production were also added.

5. There were no further consequences to the administration of the WVHA but those in connection with the labor assignment through the incorporation of the Inspectorate of the Concentration Camps into the WVHA as Amtsgruppe D. The Inspectorate of the Concentration Camps retained its official residence in Oranienburg, even after 3 March 1942. No organizational changes were connected with this incorporation. It can be said that the supreme administration of the work assignment was a special task, given to Obergruppenfuehrer Pohl by Reich Leader SS Himmler and did not have anything to do with the [other] organic structure of the WVHA.

6. Through the incorporation of the Inspectorate of the Concentration Camps into the WVHA, the Inspectorate practically did not lose any of its independence aside from the centralized management of work assignments. Particularly there was no change in the competence of the Reich Security Main Office and the political departments in the camps (department VI) because of this reorganization.

7. I remember that in the middle of 1944 Himmler issued an order to the Higher SS and Police Leaders according to which in the case of "A" the concentration camps and work camps, located in their district of command, were automatically subordinated to them [the Higher SS and Police Leaders]. Upon receipt of this order the Higher SS and Police Leaders had to get in touch imme-

diately with the camp commanders in order to prepare taking charge of the camps in the "A" case.

Nuernberg, 3 July 1947

[Signed] GERHARD MAURER

EXTRACT FROM TESTIMONY OF DEFENDANT FRANK *

CROSS-EXAMINATION

* * * * *

MR. ROBBINS: Can you tell us whether A IV had anything to do with checking the income from the use of concentration camp inmates, so-called wages? We discussed this subject the other day, but I don't believe I got an answer to that question.

DEFENDANT FRANK: Yes, that's right. We were interrupted. I mentioned before, that those amounts which were paid by the industry to the concentration camps as so-called wages were taken in by the Reich. In other words, they became an income to the Reich. Those incomes were contained in the cashbooks of the concentration camps just exactly as the expenses were. Due to the fact that every 3 months all these balance sheets were sent to Berlin there was a possibility, of course, of seeing on the basis of the balance how much money had become an income for the Reich.

* * * * *

E. The Extermination Program ("Final Solution of the Jewish Problem")

I. INTRODUCTION

The indictment alleged that "The defendants assisted in planning and carrying out plans for the subjugation and extermination of entire 'races' and nationalities considered inferior by the Nazi hierarchy" (par. 21). Under this charge the prosecution alleged, among other things, that the systematic persecution of the Jews culminated in the National Socialism policy of the wholesale extermination of Jews from all parts of German-occupied Europe. The evidence reproduced in this section is mainly concerned with this charge involving the Jews. The principal defense on this point was that the individual defendants were not knowingly involved in the program or in any specific criminal conduct.

* Complete testimony is recorded in mimeographed transcript, 5, 6, 9, 10 June 1947; pp. 2231-2487, 7410-7417.

Selections from the evidence of the prosecution on pages 610 to 644 is followed by evidence of the defense on pages 664 to 692. Further defense materials on this point are reproduced in the section on "Defense of mere organizational or administrative connection," page 786. For defense argument on this point, special reference is made to the closing statements on behalf of the defendants Pohl and Scheide, reproduced on pages 865 to 930.

2. SELECTIONS FROM EVIDENCE

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
3663-PS	460.....	Inquiry from Reich Ministry for the Occupied Eastern Territories, Berlin, to the Reich Commissioner Eastland, Riga, 31 October 1941, concerning execution of Jews; handwritten answer, 15 November 1941.	610
NO-4464	655.....	Letter of Pohl to SS Central Construction Management Auschwitz, 2 March 1942, approving building program for 1942, including crematorium in PW camp.	612
NO-3863	668.....	Detailed statement, 17 March 1942, concerning draft for the construction of building "X" (additional crematorium) for the concentration camp Dachau.	613
NO-3860	667.....	Letter from office C V to SS Central Construction Office, Dachau, 23 July 1942, concerning construction of "X-Hut" in Dachau concentration camp.	615
NO-1611	498.....	Letter by Himmler to Pohl, Krueger, Globocnik, RSHA, and Karl Wolff, 9 October 1942, informing them that Krueger and Pohl have to collect workers in concentration camps in Warsaw and Lublin; and outlining future program.	616
NO-1882	499.....	Letter of Himmler to Gauleiter Krueger (copy to Pohl), January 1943, ordering measures against Warsaw Jews.	618
NO-4473	661.....	Letter from SS Central Construction Management Auschwitz to Kammler, WVHA, 29 January 1943, reporting completion of crematorium II.	619

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-2514	500	Order of Himmler to Pohl, 16 February 1943, concerning assignment of all Warsaw Jews to a concentration camp to be established in Warsaw ghetto.	620
NO-2494	501	Letter of Himmler to the Higher SS and Police Leader East, Krueger (Krakow), 16 February 1943, ordering the destruction of the Warsaw ghetto.	621
NO-4465	660	Letter from SS Central Building Office Auschwitz to plant Auschwitz of the DAW, 31 March 1943, concerning three gas-tight chambers and one gas door with peephole for corpse cellar.	622
NO-2496	504	Letter of Himmler to Pohl, 11 June 1943, ordering the complete flattening of the destroyed Warsaw ghetto by Jews.	623
NO-4466	659	Letter from SS Central Construction Management Auschwitz to German Equipment Works (DAW), 13 June 1943, urging completion of crematoriums I, II, III, IV and other carpentry work.	624
NO-2403	505	Letter of Himmler to Pohl, 21 June 1943, ordering, among other measures, "evacuation" of "not required" Jews from the ghettos.	626
NO-2516	506	Letter by Pohl to Himmler, 23 July 1943, reporting erection of concentration camp in Warsaw to carry out work in the former ghetto.	627
NO-2503	507	Letter by Pohl to Himmler, 29 Oct. 1943, with enclosed report on demolition of Warsaw ghetto (reference to Himmler's order of 11 June 1943).	628
1061-PS	508	Selections from "Pictorial Report" on destruction of Warsaw ghetto, by SS Brigadier General Stroop, submitted to Himmler, May 1943.	631
NO-1278	440	Letter of defendant Mummenthey to defendant Baier, 8 June 1944, concerning proposal to set up a diamond cutting factory in Bergen-Belsen because the Dutch Jews have been deported from concentration camp Hertogenbosch, Netherlands.	639

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Frank 17.....	Frank Ex. 16...	Affidavit of SS Standartenfuehrer Kurt Becher, 12 June 1947, on his and Frank's attitude toward Jews.	682
Scheide 20.....	Scheide Ex. 13a..	Extract from testimony before the IMT, of Ohlendorf, 3 January 1946, on origin of gas vans used for extermination.	687
Scheide 21.....	Scheide Ex. 15..	Extracts from testimony before the IMT, of SS Hauptsturmfuehrer Wisliceny, 3 January 1946, on "Final Solution of the Jewish Problem" and transportation of Greek Jews to Auschwitz.	689

Testimony

Extracts from testimony of prosecution witness Dr. Victor Abend...	641
Extract from testimony of prosecution witness Dr. Bernard Lauber	646
Extracts from testimony of prosecution witness Jerzy Bielski.....	650
Extracts from testimony of defendant Pohl.....	664
Extracts from testimony of defendant Sommer.....	676
Extracts from testimony of defense witness SS General Karl Wolff..	678
Extract from testimony of defense witness Helmut Bickel.....	685

TRANSLATION OF DOCUMENT 3663-PS
PROSECUTION EXHIBIT 460

INQUIRY FROM REICH MINISTRY FOR THE OCCUPIED EASTERN TERRITORIES, BERLIN, TO THE REICH COMMISSIONER EASTLAND, RIGA, 31 OCTOBER 1941, CONCERNING EXECUTION OF JEWS; HANDWRITTEN ANSWER, 15 NOVEMBER 1941

The Reich Minister
For the Occupied Eastern Territories
No. I / 2591 /41

It is requested to refer to this number and the subject matter in future correspondence

Berlin W 35, 31 October 1941
Rauchstrasse 17/18
Telephone: 21 95 15
39 50 46

Cable address: Reichsmini-
sterost

[Stamp]

Reich Commissioner East
5 November 1941
Main Division IIa
[Initial illegible]

To the Reich Commissioner Eastland [Ostland] in Riga
Hermann Goering Street 26

The Reich Security Main Office [RSHA] has complained that the Reich Commissioner for the East has forbidden executions of Jews in Lepaya [Libau]. I request a report in regard to this matter by return mail.

BY ORDER

[Signed] DR. LEIBBRANDT

[Stamp]

Reich Ministry for the Occupied Eastern Territories

Certified:

[illegible signature]

Regierungsinspektor

[Handwritten letter]

The Reich Commissioner for the Eastland [Ostland]

Ila 4 M 219/41 secret

Riga, 15 November 1941

SECRET

To the Reich Minister for the Occupied Eastern Territories
Berlin

Rauchstr 17/18

Subject: Executions of Jews decree of 31 October 1941 I/2591/41.

Reporter: Reg. Rat Trampedach

I have forbidden the wild executions of Jews in Lepaya because they were not justifiable in the manner in which they were carried out.

I should like to be informed whether your inquiry of 31 October is to be regarded as a directive to liquidate all Jews in the East? Shall this take place without regard to age, sex, and economic interests (of the Wehrmacht, for instance, in specialists in the armament industry)?

[Note in different handwriting] Of course the cleansing of the East of Jews is a necessary task, its solution, however, must be harmonized with the necessities of war production. [End of note]

So far I have not been able to find such a directive either in the regulations regarding the Jewish question in the "Brown Portfolio" [Braune Mapped] or in other decrees.

[Initial] L [Lohse]

Tr. 8.11.

Resubmit 1.12.41

Submitted 1.12.

[Initialed]

887136—50—40

TRANSLATION OF DOCUMENT NO-4464
PROSECUTION EXHIBIT 655

LETTER OF POHL TO SS CENTRAL CONSTRUCTION MANAGEMENT
AUSCHWITZ, 2 MARCH 1942, APPROVING BUILDING PROGRAM
FOR 1942, INCLUDING CREMATORIUM IN PW CAMP

Copy of copy—21 September 1943—Schul.
The Chief of the SS Economic and Administrative Main Office
Dictation Reference: Ch/C36/II/Hel.

Berlin, 2 March 1942
Lichterfelde-West
Unter den Eichen 126-135

To the Central Construction Management of the Waffen SS and
Police Auschwitz

Subject: Building Program 3d Year of War Economy, Budget
year 1942 for Concentration Camp Auschwitz
Auschwitz—Oswiecim—Eastern Upper Silesia

In consideration of the labor and raw material situation, and
after having examined the proposals of the commander of the
concentration camp Auschwitz and of the chief of the central con-
struction management of the Waffen SS and Police, Auschwitz-
Upper Silesia, I herewith approve the building program in the 3d
year of war economy, budget year 1942, for the concentration
camp Auschwitz as follows:

I. Agricultural buildings.

1. 30-35 horse stable barracks for the provisional housing of
cattle, etc.
2. 2 solid cattle stables for a total of 400 heads of cattle.
3. 3 field barns and 4 provisional yard barns.
4. Provisional greenhouses for an area of 3,000 sq. meters.
5. 4 sheds for storing potatoes.
6. Transformation of construction at Raisko into a laboratory.

*II. Erection of provisional buildings for the German Economic
Enterprises*

1. Erection of a provision Solabridge to the entrance of the
prisoners in protective custody, making use of the provisional road
crossing of the Road Administration which is being dismantled.
2. Building of additional floors for 6 solid dwellings for concen-
tration camp inmates.
3. Finishing of 5 solid dwellings for concentration camp inmates
and new construction of 15 buildings for housing concentration
camp inmates, which will, at first, be used as follows:
Five accommodation buildings as workshops.

Five accommodation buildings for storage.
Five accommodation buildings for the guards.

The distance between the solid dwellings is fixed at 14 meters from the edge of one house to the next.

4. Laundry sheds.
5. Receiving buildings for protective custody prisoners.
6. Water supply installation.
7. Draining installation.
8. Installation for the utilization of sewage gas.
9. Finishing of headquarters supply barrack [Wirtschaftsbarracke Kommandantur].
10. Crematorium in prisoner of war camp.
11. Four officer barracks.
12. Construction management barrack.
13. Road building as required.
14. Enlargement of existing dwellings and enlargement of a house for the chief of the agricultural plants of Auschwitz.

The necessary records with regard to plans, land register, building and costs for the above-mentioned constructions must be submitted in good time.

Details of deeds, etc., will still be made known after examination. The necessary orders for construction will be issued after the records have been submitted.

[Signed] POHL

SS Gruppenfuehrer and Major General of the Waffen SS
Certified true copy of copy:

[Signed] Z. A. SCHIMMEL

TRANSLATION OF DOCUMENT NO-3863
PROSECUTION EXHIBIT 668

DETAILED STATEMENT, 17 MARCH 1942, CONCERNING DRAFT FOR
THE CONSTRUCTION OF BUILDING "X" (ADDITIONAL CREMATOR-
IUM) FOR THE CONCENTRATION CAMP DACHAU

Central Construction Office of the Waffen SS and Police
Munich - Dachau

Detailed Statement relating to the draft for the construction of building "X" in KL-Dachau.

1. *Official order.* Will be submitted later.
2. *Condition of building site.* As can be seen by the attached plan of the site, the allotted site for building "X" lies within reach of the SS Lager Dachau on the wooded territory between the established crematorium and the building material depot of the local office. The sewage system is accessible at the building

site. Connection to sewers and the main power line offers no special difficulties. The site is level.

3. *Foundation.* The condition of the building plot is good. Below the humus soil the sandy gravel usual in this formation is found. The excavated gravel and sand can for the greater part be utilized again in the process of construction. The highest level of the subsoil water is approximately 1.50 m.

4. *Design.* The drafts are prepared by the Central Building Office of the Waffen SS and Police, Munich-Dachau, along the lines suggested by the Main Office [SS] in Berlin. The building is surrounded on nearly all sides by trees and stands therefore relatively isolated in the surrounding country. It is enclosed by an opaque wall about 2 meters high. The building is approached on one side from the concentration camp through a gate in use for the present crematorium, and on the other side by the SS hut camp I. The building will have a cellar only large enough to accommodate the heating plant and provide space for the required storage of coal. On the ground floor will be the rooms and installations asked for. The attic will be left unfinished; can, however, be made accessible by a gangway in the center, 80 cm. wide. The foundation consists of ramed concrete. The walls are built up with bricks. The floors to be laid will be, according to their requirements of concrete; tile surface or wood (vide: plan of ground floor). The roof will be supported by cantilever heads resting on joists. Heat insulation by means of glass wool resting on the ceiling boards. The roof will be covered by flat roofing tiles. Ceilings and interior walls will be given a coat of plaster. Room 8 is provided with an intermediary ceiling of reinforced concrete. The outside walls are coated with the Munich rough finish. Low pressure steam heating to be installed for heating purposes, with the plant in the basement of the building. For fire protection, foam extinguishers are provided in sufficient numbers. The water supply, drainage, and lighting will be effected by tapping the established water and sewage system, likewise the main power line.

[Handwritten across page] An examination of the draft is waived since construction order R 196 has reached us in the meantime.

[Initials illegible]

8 May 1942

5. *Building costs.* According to the attached calculation of charges the costs of construction amount to *RM 120,700*.

6. *Time of building.* Construction will be started immediately after the snow has melted. The time of construction will be about 5 months.

[Initials illegible]

Drafted: Dachau, 17 March 1942
Central Construction Office of the Waffen SS and Police
Munich-Dachau
Signed for,

SACHEN
SS Untersturmfuehrer (S)

TRANSLATION OF DOCUMENT NO-3860
PROSECUTION EXHIBIT 667

LETTER FROM OFFICE C V TO SS CENTRAL CONSTRUCTION OFFICE,
DACHAU, 23 JULY 1942, CONCERNING CONSTRUCTION OF
"X-HUT" IN DACHAU CONCENTRATION CAMP

SS Economic and Administrative Main Office
Phone: Local 765261
Long Distance: 765101

SECRET!

Dictation Mark: C V/1-480 A Secret-13/42/Id/Zm/Et
Berlin, 23 July 1942
Lichterfelde-West
Unter den Eichen 126-135

To the Central Construction Office of the
Waffen SS and Police
Munich-Dachau.

Subject: Dachau concentration camp X-hut
Reference: Application by Construction Office, dated 27 April 1942
Enclosure: 1 Construction application (Original).

[Stamp]

SS Central Construction Office, Dachau
Received: 30 July 1942
Journal No., Enclosure

[Initial illegible]

Construction Order No. 197

By virtue of the documents submitted and as an extension of
Construction Order No. 196, I order that the work on the X-hut in
the Dachau concentration camp be definitely carried out. In con-
nection with this, I make the following remarks:

(1) The building project is within the building quota authorized
by the General Commissioner for Works and Buildings under the
priority number V II/U p a 1 for Dachau concentration camp.

(2) The construction application has been examined from the
point of view of constructional, special technical requirements,
and construction finance. Due attention is to be paid to all observa-
tions made by the examiners.

(3) The necessary construction expenses have been fixed at RM 200,000. As a second installment a sum of RM 150,000 is being made available, accounts will be settled under Chapter 21/7b (buildings) 7. The Inspectorate of Buildings, the agency making the remittances, has to enter the above amount on a budget control list. The superintendent of the Inspectorate of Buildings is made responsible for all payments and obligations for payment exceeding the amount authorized. Before utilizing the remaining 10 percent of the authorized expenditures, office C V must be notified, that the authorized construction funds are sufficient to cover all possible expenses, otherwise a supplementary application supported by sufficient evidence has to be submitted.

(4) The necessary quotas have already been made available by special allocation. In case further raw materials falling under the the quota system are required, an application supported by full particulars has to be submitted to office C V.

(5) The work is now in progress and has to be hastened in such a way that the installations can be put into operation at the scheduled date. A progress report has to be submitted to me in the monthly report on construction work. No workers employed by private enterprise may be employed. The necessary prisoners will be assigned through office C V by the chief of office D II, Oranienburg.

The Chief of Office C V
(Central Inspectorate of Buildings)
[Signed] LENZER
SS Sturmbannfuehrer

Certified true copy:
[Signed] [illegible]
SS Untersturmfuehrer

TRANSLATION OF DOCUMENT NO-1611
PROSECUTION EXHIBIT 498

LETTER BY HIMMLER TO POHL, KRUEGER, GLOBOCNIK, RSHA, AND
KARL WOLFF, 9 OCTOBER 1942, INFORMING THEM THAT KRUEGER
AND POHL HAVE TO COLLECT WORKERS IN CONCENTRATION
CAMPS IN WARSAW AND LUBLIN; AND OUTLINING FUTURE
PROGRAM

The Reich Leader SS
Journal No.: A R 31/22/42
RF/V.

[Stamp]
Personal Staff Reich Leader SS
Administration of Correspondence
File No.: secret 126
Field Command Post, 9 October 1942
[Stamp]

SECRET

[Handwritten] To files
[Initial] M

I wish to state the following with reference to the memorandum from the military district commander in the Government General to the OKW, concerning the substitution of Poles for Jewish labor:

1. I have given orders that all of the so-called armament workers, who work only in tailoring, fur, and shoemaking workshops, are to be gathered together in concentration camps on the spot; that is in Warsaw, Lublin by SS Obergruppenfuehrer Krueger and Pohl. The Wehrmacht is to give their orders to us, and we guarantee that the delivery of the articles of clothing requested by it shall continue. However, I have given directions to proceed unrelentingly against all those who believe that they have to oppose the step with so-called armament interests but who in reality only wish to support the Jews and their business.

2. The Jews who are in actual armament firms, that is in weapon production shops, motor-car workshops, etc., are gradually to be taken out. As the first step, they are all to be in one workshop in each plant. As the second step in this procedure, the workers of these separate workshops are to be put together, as far as possible, in separate factories through an exchange, so that eventually we would have only a few separate concentration camp factories in the Government General.

3. We will then strive to substitute Poles for these Jewish workers, and to reduce most of these Jewish concentration camp factories to a few large Jewish concentration camp factories if possible in the East of the Government General. Of course, there too, the Jews shall some day disappear in accordance with the Fuehrer's wishes.

[Signed] H. HIMMLER

For correctness:

[Signed] BRANDT

SS Obersturmbannfuehrer

Distribution:

1. SS Ogruf. Pohl
2. SS Ogruf. Krueger
3. SS Brigf. Globocnik
4. Reich Security Main Office
5. SS Ogruf. Wolff

(three copies for the information of Quartermaster General Wagner and Lt. Colonel Tippelskirch)

TRANSLATION OF DOCUMENT NO-1882
PROSECUTION EXHIBIT 499

LETTER OF HIMMLER TO GAULEITER KRUEGER (COPY TO POHL),
JANUARY 1943, ORDERING MEASURES AGAINST WARSAW JEWS

The Reich Leader SS
Journal No.
RF/V

[Stamp]
Personal Staff Reich Leader SS
Archives
File No. Secret /126
Field Command post, January 1943
[Stamp] SECRET
[Handwritten] To be filed

Dear Krueger,

I was in Warsaw yesterday. As I did not know for sure whether I would get there, I did not inform you.

I called the local man of the Inspectorate of Armament of the Army, a Colonel Fretter.

There still are about 40,000 Jews in Warsaw. In the next days, 8,000 of them will be shipped [Abgefahren]. Thirty-two thousand still are in so-called armament plants. About 24,000 of these in textile and fur plants, particularly with the firm Walter C. Toebbens, KG, Warsaw.

I gave Colonel Fretter the order to tell Major General Schindler, the Inspector of Armament, that I am surprised that my orders concerning the Jews are not being carried out.

Now, I once more set a term, until 15 February 1943, when the following things are to be accomplished:

(1) Immediate elimination of the private firms.

I consider it absolutely necessary to make sure that the proprietors who made themselves indispensable around here are called up and sent to the front.

(2) I am giving orders to the Reich Security Main Office [RSHA] to make a thorough check on the business and the returns of the firm Walter C. Toebbens, KG, Warsaw, with the help of certified public accountants.

If I am not mistaken, a man who formerly did not possess any property, developed in three years in this case, into a well-to-do proprietor—if not even into a millionaire already—and this only because we, the State, furnished him with the cheap Jewish labor.

(3) Immediate transfer of all the 16,000 Jews to a concentration camp, the best would be to Lublin. Guarantee to Armaments Inspectorate to accomplish and to deliver the same quantity and in the same time as before. I guess it also could be done at lower prices.

- (4) The same applies to a number of smaller workshops in the ghetto, producing parts of engines or parts of aircraft, which also could be made in a camp.
- (5) The remaining plants, which really are manufacturing iron, are as speedily as possible to be concentrated at some place in the Government General, thus establishing one plant consisting of a couple of sheds where only Jewish workers are working who may then be guarded and isolated most strictly.

I request action to be taken and report about accomplishment.

Heil Hitler!

[Signed] H. HIMMLER

Copies of the letter to:

1. Reich Security Main Office
2. SS Obergruppenfuehrer Pohl

Certified:

[Signed] MEINE

SS Obersturmfuehrer

SS Obergruppenfuehrer Wolff for information.

TRANSLATION OF DOCUMENT NO-4473
PROSECUTION EXHIBIT 661

LETTER FROM SS CONSTRUCTION MANAGEMENT AUSCHWITZ TO
KAMMLER, WVHA, 29 JANUARY 1943, REPORTING COMPLETION
OF CREMATORIUM II

[Handwritten]

SS Ustuf. (F) Kirschneck

COPY

29 January, 1943

Bftgb. [Journal] No. 22250/43/Bi/L.

To the Chief of Amtsgruppe C, SS Brigadefuehrer and Brigadier
General of the Waffen SS, Dr. Ing. Kammler,

Berlin-Lichterfelde-West

Unter den Eichen 126-135

Subject: Crematorium II, condition of the building.

Reference: Teletype letter of SS Economic and Administrative
Main Office No. 2648 of 28 January 1943.

Enclosure: Report on check-up.

The crematorium II has been completed—save for some minor constructional work—by the use of all the forces available, in spite of unspeakable difficulties, the severe cold, and in 24-hour shifts. The fires were started in the ovens in the presence of Oberingenieur Pruefer, representative of the contractors of the firm of Topf and Soehne, Erfurt, and they are working most

satisfactorily. The planks from the concrete ceiling of the cellar used as a mortuary [Leichenkeller] could not yet be removed on account of the frost. This is, however, not very important, as the gas chamber can be used for that purpose.

The firm of Topf and Soehne was not able to start deliveries of the installation in time for aeration and ventilation as had been requested by the Central Building Management because of restrictions in the use of railroad cars. As soon as the installation for aeration and ventilation arrive, the installing will start so that the complete installation may be expected to be ready for use 20 February 1943.

We enclose a report [not attached to document] of the testing engineer of the firm of Topf and Soehne, Erfurt.

The Chief of the Central Construction Management,
Waffen SS and Police Auschwitz
SS Hauptsturmfuehrer

Distribution:

1—SS Ustuf. Janisch u. Kirschneck.

1—Filing office (file crematorium).

Certified true copy:

[Signature illegible]

SS Ustuf. (F)

TRANSLATION OF DOCUMENT NO-2514
PROSECUTION EXHIBIT 500

ORDER OF HIMMLER TO POHL, 16 FEBRUARY 1943, CONCERNING
ASSIGNMENT OF ALL WARSAW JEWS TO A CONCENTRATION
CAMP TO BE ESTABLISHED IN THE WARSAW GHETTO

[Stamp]

Personal Staff Reich Leader SS
Archives
File No. Secret/343

The Reich Leader SS
Journal No. 38/32/45 g.

Field Command Post, 16 February 1943

SECRET!

To the Chief of the SS Economic and Administrative Main Office
SS Obergruppenfuehrer Pohl
Berlin

(1) I am giving the order to establish an X * *concentration camp*
in the ghetto of Warsaw.

* "X" inserted in pencil at this point in original document followed by remainder of sentence underlined in original.

(2) All Jews living in Warsaw are to be transferred to this concentration camp; Jews are not permitted to work in privately owned enterprises.

(3) The former privately owned enterprises in the ghetto of Warsaw are being taken over by the concentration camp (Reich enterprise).

(4) The concentration camp Warsaw as a whole, including its enterprises and its inmates, is to be transferred to Lublin and surroundings as quickly as possible, but in such a way that production does not suffer.

Signed H. HIMMLER

(2) *SS Obergruppenfuehrer Krueger, Krakow.*

Copy transmitted for information

BY ORDER

Certified Copy:

Signed BRANDT
SS Obersturmbannfuehrer

[Initialed] M[eine]
SS Hauptsturmfuehrer
16 February

(3) To the Chief of the Security Police and SD, Berlin.
Transmitted for information.

BY ORDER

[Initialed] BR[andt]
SS Obersturmbannfuehrer
[Initial] M

TRANSLATION OF DOCUMENT NO-2494
PROSECUTION EXHIBIT 501

LETTER OF HIMMLER TO THE HIGHER SS AND POLICE LEADER EAST,
KRUEGER (KRAKOW), 16 FEBRUARY 1943, ORDERING THE DE-
STRUCTION OF THE WARSAW GHETTO

The Reich Leader SS
Journal No. 38/33/43 g.

Field Command Post, 16 February 1943

[Stamp]

Personal Staff Reich Leader SS
Archives
File No. Secret/343

To the Higher SS and Police Leader East
SS Obergruppenfuehrer Krueger
Krakow

Secret!

For security reasons, I give the order to tear down the ghetto of Warsaw after the concentration camp has been removed [Herausverlegung]; all utilizable building material or material of any kind is to be recovered beforehand.

The tearing down of the ghetto and the installation of the concentration camp is necessary, because otherwise we never will quiet down Warsaw, and criminal disorder will never be rooted out as long as the ghetto remains.

A master plan for the pulling down of the ghetto has to be submitted to me. It has to be accomplished in any case that the living space which accommodated 500,000 sub-humans [Untermenschen] and never was suitable for Germans will completely disappear, and that the city of Warsaw with its one million inhabitants will be reduced in size, having always been a dangerous center of decomposition and of rebellion.

[Signed] H. HIMMLER

(2) To the Chief of the Security Police and SD.

Copy transmitted for information.

BY ORDER

[Initialed] BR[andt]
SS Obersturmbannfuehrer

Chief "P" also received copy.

TRANSLATION OF DOCUMENT NO-4465
PROSECUTION EXHIBIT 660

LETTER FROM SS CENTRAL BUILDING OFFICE AUSCHWITZ TO
PLANT AUSCHWITZ OF THE DAW, 31 MARCH 1943, CONCERNING
THREE GAS-TIGHT CHAMBERS AND ONE GAS DOOR WITH PEEP-
HOLE FOR CORPSE CELLAR

Plant Auschwitz O. S. [Upper Silesia].

31 March 1943

26171/43/12/Schul.

Firm Deutsche Ausruestungswerke G.m.b.H.

Subject: Order 2261/80/17 of 18 January 1943 BW 30 b

Reference: Your letter of 24 March 1943, No. 6056-43

Enclosure: None.

You are informed with reference to the above-mentioned letter that three *gas-tight chambers* [Tuerme] are to be completed in accordance with the order of 18 January 1943 for the BW 30 b and 30 c exactly similar in measurement and type, to the chambers previously supplied.

On this occasion, we would remind you of a further order of 6

March 1943 concerning supply of a gas door 100/192 for corpse cellar I of Crematorium III, BW 30 a, which is to be manufactured exactly according to type and measurement of the cellar door of the opposite crematorium II with a peep hole of double 8 mm. glass with rubber packing and steel frame. This order is to be treated as specially urgent.

The trap door [Bodenabschlusstuer] ordered on 23 January 1943 for BW 30 as well as 1 piece of blind frame door need not be furnished; this order is cancelled.

The prepared 10 cubic meters of firewood will be collected at the first opportunity.

The Chief of Central Building of the Waffen SS and Police, Auschwitz

[Initial] K[iefer]
SS Sturmbannfuehrer

Distributor:
Registry. File BW 30
Z. A. Teichmann
Construction Management Concentration Camp,
SS Ustuf. Kirschneck
[Illegible]

TRANSLATION OF DOCUMENT NO-2496
PROSECUTION EXHIBIT 504

LETTER OF HIMMLER TO POHL, 11 JUNE 1943, ORDERING THE COMPLETE FLATTENING OF THE DESTROYED WARSAW GHETTO BY JEWS

[Stamp]
Personal Staff Reich Leader SS
Archives
File No. 3436

The Reich Leader SS

Field Command Post, 11 June [19] 43

1. To the Chief of the SS Economic and Administrative Main Office
2. To the Chief of the Security Police and SD.

[handwritten] to files

I herewith order, that the *Dzielna* prison in the former *ghetto of Warsaw*, is to be transformed into a concentration camp. The prisoners are to gather and to secure the millions of building stones, scrap iron, and other building material of the former ghetto. Special care is to be taken for the secure guard of the prisoners during this work.

I instruct the Higher SS and Police Leader East and the Police

Leader Warsaw to make sure that during this cleaning up the city center of the former ghetto is to be flattened completely and every cellar and every canalization is to be filled in.

After the work is finished the area is to be covered up with earth and a large park is to be planted.

Copies for information:

3. Higher SS and Police Leader East
4. SS and Police Leader Warsaw

TRANSLATION OF DOCUMENT NO-4466
PROSECUTION EXHIBIT 659

LETTER FROM CENTRAL SS CONSTRUCTION MANAGEMENT AUSCHWITZ TO GERMAN EQUIPMENT WORKS (DAW), 13 JUNE 1943, URGING COMPLETION OF CREMATORIIUMS I, II, III, IV AND OTHER CARPENTRY WORK

Copy

13 June 1943

21242/43/Er/L.

To the Deutsche Ausruestungswerke G.m.b.H. [DAW German Equipment Works, Ltd.] Auschwitz

Subject: Carrying out of carpentry work for local construction projects.

Reference: Letter of the Central Construction Management of 4 November 1942, Bftgb., 17450/42/Er/L, and repeated personal meetings with SS Ostuf. Wagner and Z. A. Lochner

In our above-quoted letter (copy forwarded to the office W IV) we asked you, following a meeting with SS Obersturmfuehrer Wagner, to complete the carpentry work for the below-mentioned construction as soon as possible, as otherwise the building operations would have to be suspended in winter; in particular—

1. 15 new constructions for prisoners quarters.
 2. 4 build-up constructions for prisoners quarters by adding storeys.
 3. Temporary Kommandantur [Headquarters].
 4. Laundry building with reception, delousing plant, and bath for prisoners.
 5. Laboratory at Raisko.
 6. Grass drying plant at Raisko.
 7. Greenhouse plant at Raisko.
 8. Crematoriums I and II, prisoner of war camp Auschwitz.
 9. Crematoriums III and IV, prisoner of war camp Auschwitz.
- The carpentry work, however, had in no case been done pro-

portionate to the completion of the other parts of the construction despite the repeated verbal promises by the management of the Deutsche Ausruestungswerke, Auschwitz plant. In the first place, delivery without delay is requested for the doors (ordered by letter of 26 October 1942 Bftgb. Nr.: 17010/42/Ky/Pa.) for the crematorium I in the prisoner of war camp, which is urgently needed for the execution of the special measures; otherwise the progress of the construction work would be jeopardized.

Likewise, the completion of windows for the reception building and the doors for 5 huts for the accommodation of prisoners is urgently required for the same reasons. Due to the lack of windows and doors in some of the constructions in progress the building operations had, on account of the now prevailing severe frost, to be suspended thereby causing a delay in the completion of the urgently needed construction for considerable time. Since the central construction management, having transferred its own shop to the Deutsche Ausruestungswerke G.m.b.H., Auschwitz Plant, is no longer in a position to have carpentry work done of their own accord, the Auschwitz plant of the DAW must on its own part, do its best in order to assist the progress of the construction work being done in this place by delivering the carpentry work in time.

Thus, we renew our request to complete and deliver in the first place the carpentry work mentioned above without delay.

Furthermore, the supplementary terms of the agreement for the tender for the prisoners quarters and the laundry building asked for by letter of the Central Construction Department of 9 December 1942, Bftgb. No.: 19708/42/Tei/Lm, are still missing.

The Chief of the Central Construction Management
of the Waffen SS and Police Auschwitz
SS Hauptsturmfuehrer

Distribution:

- 1—SS Ustuf. Ertl
- 1—SS Ustuf. Jarisch
- 1—SS Ustuf. Kirschneck
- 1—SS Ustuf. Kywitz
- 1—Filing department (shop orders DAW)

Certified true copy.

[Signed] F. A. TUCHMANN

TRANSLATION OF DOCUMENT NO-2403
PROSECUTION EXHIBIT 505

LETTER OF HIMMLER TO POHL, 21 JUNE 1943, ORDERING, AMONG
OTHER MEASURES, "EVACUATION" OF "NOT REQUIRED" JEWS
FROM THE GHETTOS

The Reich Leader SS
RF/Bn. 38195143 g

- (1) To the Higher SS and Police Leader Ostland [added in shorthand]: By courier by way of the command staff
- (2) To the Chief of the SS Economic and Administrative Main Office.

Field Command Headquarters, 21 June 1943

[Stamp]

Personal Staff Reich Leader SS

Archives

File No. Secret 343

[Stamp] Secret

[Pencil note] 1. By courier by way of the command staff

1. I order that all the Jews still remaining in ghettos in the Ostland area have to be collected in concentration camps.

2. I prohibit any taking out of Jews from concentration camps for [outside] work projects beginning 1 August 1943.

3. There has to be erected a concentration camp in the vicinity of Riga, to which has to be transferred all the manufacturing of clothing and equipment in outlying works maintained by the Wehrmacht. All private firms have to be cut out. The workshops are to become plain concentration camp workshops. The chief of the SS Economic and Administrative Main Office is requested to take care, that this reorganization does not cause any reduction in the necessary production for the Wehrmacht.

4. The biggest possible part of the male Jews has to be brought to the concentration camp in the oilshale area for the mining of oilshale.

5. Members of the Jewish ghettos not required are to be evacuated to the East.

6. Fixed day for the reorganization of the concentration camps is 1 August 1943.

[Signed] H. HIMMLER

(3) To the Chief of Security Police and SD, a copy sent for information.

BY ORDER

[Initial] B. [Brandt]
SS Obersturmbannfuehrer

(4) To SS Standartenfuehrer Rode, copy sent for information.

BY ORDER

[Signed] BRANDT
SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO-2516
PROSECUTION EXHIBIT 506

LETTER BY POHL TO HIMMLER, 23 JULY 1943, REPORTING ERECTION
OF CONCENTRATION CAMP IN WARSAW TO CARRY OUT WORK
IN THE FORMER GHETTO

[Stamp]

Personal Staff Reich Leader
Central Files Administration 343

The Reich Leader SS and Chief of German Police
SS Economic and Administrative Main Office
Ref: D II/1 29a/27 Ma./Hue.

Must be quoted in reply.

Berlin, 23 July 1943
Lichterfelde-West
Unter den Linden 120-135
Telephone: Local 765251
Long Dist 765101

To the Reich Leader SS
Berlin SW 11
Prinz-Albrecht Str. 8
Subject: Erection of concentration camp in the former Warsaw
ghetto.

Reference: Decree of 11 June 1943.
Reich Leader,

I report that the concentration camp in the Warsaw ghetto has
been erected and was occupied by the first 300 prisoners on 19
July '43.

As commandant I have appointed SS Obersturmbannfuehrer
Goecke, who has acquainted himself with the duties at Mauthausen
concentration camp during the past few months.

The prisoners will, as ordered, be assigned to the salvaging
and collecting of materials. The number of prisoners will be

increased as speedily as possible as far as the erection of further accommodation permits.

Work in the former ghetto will be executed in the closest collaboration with the SS and Police Leader in the Warsaw district, SS Brigadefuehrer Stroop.

[Stamp]

Received on 27 July 1943

Journal No. 38/32/43 g.

To: R.F.

[Signed] POHL

SS Obergruppenfuehrer and Lt. General of the Waffen SS

TRANSLATION OF DOCUMENT NO-2503
PROSECUTION EXHIBIT 507

LETTER BY POHL TO HIMMLER, 29 OCTOBER 1943, WITH ENCLOSED
REPORT ON DEMOLITION OF WARSAW GHETTO (REFERENCE TO
HIMMLER'S ORDER OF 11 JUNE 1943)

SS Economic and Administrative Main Office

Berlin, 29 Oct 1943

Lichterfeld-West

Unter den Linden 126-135

Telephone: Local 765261

Long Distance

765361

[Stamp]

Personal Staff Reich Leader SS

Archives Administration

File No. Secret 343

[Handwritten] good [Initials] H.H. [Heinrich Himmler]

Dictation reference: C V/4—Gg 38/11 /Pr/W.

Must be quoted in all replies.

Subject: Demolition of the Ghetto in Warsaw

Enclosures: 1

To the

Reich Leader

I herewith enclose a report on the measures taken up to now with regard to the demolition of the ghetto in Warsaw.

Heil Hitler!

[Signed] POHL

SS Obergruppenfuehrer and General of the Waffen SS

[Stamp partly illegible]

4 November 1943

38/140/43g

RF.

SS Economic and Administrative Main Office

Berlin, 29 Oct 1943

[Stamp]

Personal Staff Reich Leader

Archives Administration

File No. Secret 343

Report about the measures taken up to now, with regard to the demolition of the ghetto in Warsaw, reporter: SS Brigadefuehrer Dr. Engr. Kammler SS Hauptsturmfuehrer (F) Prinzl.

1. *Official directive.* The Reich Leader SS on 11 June [19]43 ordered the demolition of the ghetto in Warsaw. The SS Economic Administrative Main Office, division C, has been charged with the technical execution of these measures.

The placing of the prisoners will be carried out by division D.

2. *Type and extent of measures.* The ghetto of Warsaw covers a total area of 320 ha. [791 acres]. Of this area about 120 ha. [296 acres] have so far been handed over to the civil administration. The destroyed area which has to be demolished amounts to 180 ha. [445 acres].

The buildings which are to be demolished, have a total capacity of 12 million cubic meters [424 mill. cubic feet] of surrounded space. About 2,460,000 cubic meters [86,872,000 cubic feet] of masonry will have to be demolished.

Considerable quantities of iron (scrap metal) are supposed to be in these buildings.

3. *Measures taken.* In order to pull down the debris and to remove it, the following steps were taken:

GB construction. From the Reich Minister Speer, the urgent quota number Government General 43 Z up 1 has been secured for this construction project.

Firms. In accordance with the GB construction and the Main committee for construction the following efficient firms under the leadership of the firm Merckle, Ostrowo-Wartheland have been engaged:

Ostdeutsche Tiefbau G.m.b.H., Hamburg-Bober,

Firma Willy Keymer, Warsaw, and

Berlinische Baugesellschaft, Berlin.

These firms have guaranteed to pull down and to remove 4,500 cubic meters [159,000 cubic feet] daily.

The following implements will be in use as from 15 November 1943: 10 Dredgers, 15 km. of tracks, 400 tilting lorries, and 20 locomotives. As this project hardly could be provided with fuel, the implements have to be operated to 80 percent by steam or electricity aside as substitutes.

At present, negotiations with the Eastern Railway are in prog-

ress to lay the main railway to the ghetto which is to be demolished: in this way the debris destined for the immediate use of the Eastern Railway is to be removed.

Fifteen thousand prisoners are used as *laborers* up to now. After the arrival of the implements 2,000 more will have to be used immediately. Furthermore, 145 Germans and Poles are at work as civilian laborers. In addition to these the firms will employ 240 foremen and enginemen, 30 foremen of navvies and polishers, and a technical and commercial staff of 30 men.

For the housing of the prisoners a concentration camp will be erected in the ghetto. The concentration camp will be built in three construction periods as follows:

1st period to 15 November 1943.
2d period to 31 January 1944.
3d period to 28 February 1944.

By means of these firms, implements, and laborers the daily performance is to be 4,500 cubic meters. Taking into consideration the time required to reach full production, this would by 1 August 1944, the date set for the completion, amount to 1,100,000 cubic meters [38,845,000 cubic feet] of rubble.

The remaining amount of 1,540,000 cubic meters [54,384,000 cubic feet] of rubble is to be *levelled* on the spot before the above-mentioned date. Making allowances for an area of 30 ha. [74 acres] for the concentration camp and 20 ha. [49 acres] for the streets, the level of the area will be raised 1,20 m. by the layer of debris. This debris is to be covered with city refuse, ashes, and feces and is to be planted.

The *expenditures* for the above measures, are estimated at about 150 million. This amount is made up of the following items:

- (1) 12 million cubic meters of walled-in space to be demolished, including the erection of the concentration camp—RM 11,50 for 1 cubic meter 138,000,000
- (2) 1,000,000 cubic meters of debris to be removed—RM 8 for 1 cubic meter. 8,800,000
- (3) 120 ha. to be levelled, to be covered and cultivated as described above—RM 10,000 for 1 ha. 1,200,000
- (4) Installations on the building ground, laying of the tracks and removal later on. 2,000,000

Value of the material thus obtained is estimated at 5,000,000 RM.

In view of the unusual circumstances which prevail in the Warsaw sector, no monetary returns can be expected for the salvaged material, as usufructuaries, civilian and military alike, will remove the material only on the condition that it is placed at their disposal free of charge.

[Signed] POHL

TRANSLATION OF DOCUMENT 1061-PS
PROSECUTION EXHIBIT 503

SELECTIONS FROM "PICTORIAL REPORT" ON DESTRUCTION OF
WARSAW GHETTO BY SS BRIGADIER GENERAL STROOP, SUB-
MITTED TO HIMMLER MAY 1943

[Document 1061-PS, Prosecution Exhibit 503 is the final report of Brigadefuehrer Stroop on the "combing out" of the Warsaw ghetto during the period 19 April to 16 May 1943. The document is not reproduced here because of its length; it is included in Nazi Conspiracy and Aggression, volume III, pages 718-775; United States Government Printing Office, Washington, 1946. Stroop's report also contained a "pictorial report," consisting of numerous photographs on the Warsaw ghetto action which are not reproduced in Nazi Conspiracy and Aggression. Seven of these pictures are reproduced on the following pages.]

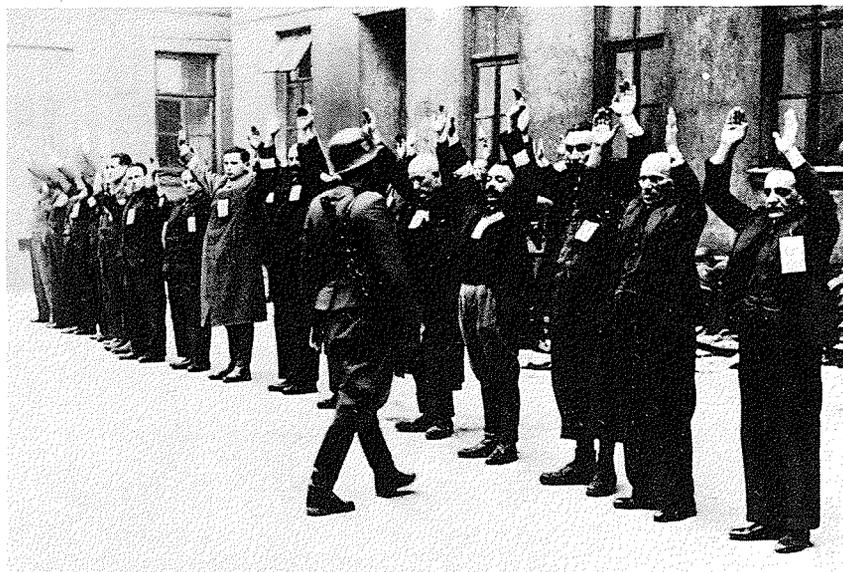


Part of the wall erected by the Nazis to surround the section of Warsaw designated as "The Ghetto".



— *Життя Ойночелі зніб Війни інікоокіфолі.* —

["Pulled out of dug-outs by force."]



Іні жидівські Ойнілінігелінік інік Ойнінігелінік — Брауер.

["The Jewish section chiefs of the armament factory Brauer."]



~ Сильно выкуривая из Jews и Bandits. ~

["Smoking out of the Jews and bandits."]



~ Все вынуждено с улиц силой извлекать. ~

["Pulled out of dug-outs by force."]



— *ישיבת דולינא.* —

["Jewish Rabbis."]



— *אבטראכטונג פון יידן.* —

["Evacuation of Jews."]

44-Wirtschafts-Verwaltungshauptamt

Berlin, 29. Okt. 1943

Liebesfeldstr. 8
Postfach 120-121
Berlin

Personenabteilung
Diktatort
Telefonnummer 76 51 01

Diktatort

C V/4 - Gg 58/11 /1r/7.

Im Amtsbereich des Reichsführers

Handwritten initials and scribbles, including the number 343.

Betr.: Abbruch Ghetto Warschau

Anl.: - 1 -

An den
Reichsführer

Berlin SW 11
Irisz-Albrecht-Str. 8.

Reichsführer!

In der Anlage überreiche ich einen Bericht über die bis-
her eingeleiteten Massnahmen für den Abbruch des Ghetto
Warschau.

Heil Hitler!

Handwritten signature: Pohl

4-Obergruppenführer und General-
der Waffen-4.

Handwritten notes and scribbles at the bottom left.

Document NO-2503, Prosecution Exhibit 507 bearing the signature of defendant Pohl. The initials of Heinrich Himmler appear at upper right below his notation "gut" (good). Pohl's initial appears on the final page of the report. (For a translation of this document, see page 628.)

943

B e r i c h t

Über die bisher eingeleiteten Massnahmen zum Abbruch
des Ghetto Warschau.

Berichtersteller: 4-Brigadeführer Dr. Ing. Kammler
4-Hauptsturmführer (F) Frinzl.

1.) Dienstliche Veranlassung.

Der Reichsführer-4 hat am 11.6.43 den Abbruch des Ghettos
Warschau befohlen. Mit der technischen Durchführung die-
ser Massnahmen wurde das 4-W.V.Hauptamt, Amtsstufe C
beauftragt.

Die Abstellung der Häftlinge erfolgt durch die Untsgrup-
pe D.

2.) Art und Umfang der Massnahmen.

Das Ghetto Warschau weist eine Gesamtfläche von 320 ha auf.
Von dieser Fläche wurden bisher an die Zivilverwaltung
120 ha abgegeben. Die zerstörte abzubrechende Fläche be-
trägt 180 ha.

Die abzubrechenden Gebäude haben einen Gesamtvolumen von
12 Mill. cbm unbauten Raum. Abzubrechen sind rd. 2.640.000
cbm Mauerwerk.

In den Gebäuden sollen erhebliche Mengen Eisen (Schrott)
vorhanden sein.

3.) Veranlasste Massnahmen.

Um diese Massen abzutragen und abzuführen wurde folgendes
veranlasst.

GB-Bau.

Bei dem Reichsminister Speer wurde die vordringlichste
Sachfolge Nummer

Gen.Souv. 43 Z up 1

für dieses Bauvorhaben sichergestellt.

Firmen

Im Einvernehmen mit dem GB-Bau und dem Hauptausschuss Bau

wurden folgende leistungsfähigen Firmen unter Führung der
Fa. M e r c k l e , Ostrowo/Jartheland eingesetzt:
Ostdeutsche Tiefbau GmbH, Haunburg/Bober,
Fa. Willy Keymer, Warschau,
Berlinische Baugesellschaft, Berlin.

Diese Firmen haben die Verpflichtung übernommen, täglich
4.500 cbm Abbruchmassen abzutragen und abzuführen.

An Gerät wird bis zum 15.11.43 eingesetzt sein:

10 Bagger,
15 km Gleis,
400 Kipploren,
20 Lokomotiven.

Da dieses Vorhaben kaum mit Treibstoffen versorgt werden
kann, sind die Geräte zu 80 % auf Dampf- und Elektrobetrieb,
zu 20 % auf Dieselmotorbetrieb eingestellt. Das Dieselmotorgerät ist
im wesentlichen als Ersatzgerät sichergestellt.

Zzt. laufen Verhandlungen mit der Ostbahn um in das ab-
zubrechende Ghetto die Normalspur-Bahn zu verlegen; auf
diesem Wege sollen Abbruchmassen für den unmittelbaren Be-
darf der Ostbahn zum Abtransport gebracht werden.

An Arbeitskräften sind bisher 1.500 Häftlinge eingesetzt.
Zum sofortigen weiteren Einsatz müssen nach Eintreffen des
Gerätes weitere 2.000 Häftlinge gelangen. Weiter sind an
zivilen Arbeitskräften 145 Deutsche und 400 Polen an der
Arbeit. Zum weiteren Einsatz gelangen durch die Firmen
240 Vorbereiter und Maschinisten, 30 Schachtmeister und Po-
liere, 30 Mann technisches und kaufmännisches Personal.

Für die Unterbringung der Häftlinge wird im Ghetto Bereich
ein K.L. errichtet; das K.L. wird in 3 Bauabschnitten die
folgende Abfolge:

1.	Bauabschnitt bis zum	15.11.43
2.	"	" " 31. 1.44
3.	"	" " 28. 2.44.

Mit diesen Firmen, Gerät und Arbeitsinsatz sollen täglich
4.500 cbm geleistet werden. Dies ergibt unter Berücksich-
tigung der Anlaufzeit bis zum befohlenen Fertigstellungs-
termin vom 1.8.44 eine Abbruchmenge von rd. 1.100.000 cbm
Mauerwerk.

Die verbleibende Menge von 1.240.000 cbm Mauerwerk muss bei dem obengenannten Termin an Ort und Stelle einplaniert werden. Bei Berücksichtigung einer Fläche von 30 ha für das K.L. und 20 ha für Strassenflächen erfolgt somit eine Aufhöhung der Fläche mit Schuttmassen von 1,20 m. Diese Schuttmassen sollen mit Abfällen aus der Stadt, Asche und Exkalien abgedeckt und bepflanzt werden.

Die Kosten für die obigen Massnahmen werden auf rd. 150 Mill. geschätzt. Dieser Betrag setzt sich wie folgt zusammen:

- | | |
|---|---------------|
| 1) 12 Mill. cbm umbauen, Mass aberechnen einschl. Erstellung des K.L. je km 11,50 = | 138.000.000,- |
| 2) 1.100.000 cbm Schuttmassen abführen je km 8,- = | 8.800.000,- |
| 3) 120 ha einplanieren, überdecken wie oben beschrieben und aussen je ha 10.000,- = | 1.200.000,- |
| 4) Baustelleneinrichtung, Anlage der Gleise und spätere Räumung | 2.000.000,- |

Der Wert der gewonnenen Materialien wird auf 5.000.000,- RM geschätzt.

Mit Rücksicht auf die besonderen Verhältnisse im Raume Warschau kann mit einem Ersatz an Geld für gewonnene Materialien nicht gerechnet werden, da Abfuhr durch Nutzniesser militärischer und ziviler Art nur bei kostenloser Bereitstellung der Materialien zu erreichen ist.

*R₂
4*

TRANSLATION OF DOCUMENT NO-1278
PROSECUTION EXHIBIT 440

LETTER OF DEFENDANT MUMMENTHEY TO DEFENDANT BAIER, 8
JUNE 1944, CONCERNING PROPOSAL TO SET UP A DIAMOND
CUTTING FACTORY IN BERGEN-BELSEN BECAUSE THE DUTCH
JEWS HAVE BEEN DEPORTED FROM CONCENTRATION CAMP
HERTOGENBOSCH, NETHERLANDS

Office, Chief W I .
My [Meyer] /A.

Oranienburg, 8 June 1944

[Handwritten] Berlin, W 9 June 44

- (1) Hauptsturmfuehrer Dr. Volk
for notice 13/6/44
- (2) To files: Office W I
B [BAIER]

To Chief W, SS Oberfuehrer Baier,
Berlin-Lichterfelde-West

Subject: Diamonds.
Reference: My letter of 20 May 1944.

Oberfuehrer,

Referring to my letter mentioned above, I inform you herewith
about the motion brought before the chief of the Main Office
[Pohl] on 30 May 1944.

“By order, the most important points will be brought up for
decision.

1. *Developments up to now.* (Pohl 1-6)

3 December 1942	Order of the Reich Leader SS for establishment of a diamond cutting factory in the concentration camp Hertogenbosch.
28 July 1943	Your order, that the W I take over.
15 December 1943	Report of completion sent through SS Obersturmbannfuehrer Dr. Brandt to the Reich Leader SS and descrip- tion of the situation as to rough diamonds.

29 December	1943	Reich Leader SS requests transfer and issues instructions for furnishing of rough diamonds.
February	1944	Inspection of the diamond cutting factory in the concentration camp Hertogenbosch by Reich Leader SS.
March	1944	Reich Leader SS orders the deportation of Jews from the Netherlands.
18 May	1944	The last Jewish diamond workers are deported.

2. *Present situation.* a. Diamond cutting factory of concentration camp Hertogenbosch *without workers*, therefore closed. Only a small part of the technical establishment is property of the DEST [German Earth and Stone Works].

b. The diamond industry of Amsterdam came to a standstill because of the lack of Jewish skilled workers. In case of negative decision, the Aryan plants have to close at the end of May.

3. *Proposal.* Aryan diamond industrialists from Holland ask the management of the concentration camp Hertogenbosch [Kl He.] for permission by way of the German Earth and Stone Works, that 80 Jewish polishers and 18 Jewish cutters may be permitted to manufacture half finished articles in a special camp under direction of Jewish contractors. They themselves would be prepared to furnish machines and *raw materials* and to take any risk concerning financial and technical problems.

“.....” [sic]

Yes

Approval of the proposal, just submitted, will decide the future existence of the European diamond-cutting monopoly as laid down by the Reich Leader SS and the State Secretary in the Reich Ministry for Economy, SS Gruppenfuehrer Dr. Hayler.

The urgency of the decision is based on the fact that the diamond industry in Amsterdam practically came to a standstill by the deportation of the Jews on 18 May. In addition the technical establishments by order of the Reich Leader SS have to be brought into safety before the setting in of special events.

The chief of office D II, SS Standartenfuehrer Maurer received detailed information, describing the circumstances. He is of the opinion that a diamond-cutting factory for about 150–200 skilled workers could be established in the special camp Bergen-Belsen, to execute there the work required: SS Hauptsturmfuehrer Sommer from office D II, SS Hauptsturmfuehrer Schwarz, and SS Obersturmfuehrer Meyer from office W I will go to Bergen-Belsen on Saturday, 3 June 1944, to select the premises where the ma-

chines are to be installed and, taking your approval for granted, prepare the installation of the machines and the housing of the Jewish skilled workers. Once this question has been clarified I will write another report.

[Signed] MUMMENTHEY

SS Obersturmbannfuehrer

(The remarks of the chief of the Main Office were marked with red pencil.)

EXTRACTS FROM TESTIMONY OF PROSECUTION WITNESS
DR. VICTOR ABEND *

DIRECT EXAMINATION

MR. MCHANEY: Your name is Victor Abend?

WITNESS ABEND: Yes.

Q. And when and where were you born?

A. I was born on 1 April 1901 at Jaroslaw.

Q. Are you a citizen of Poland?

A. Yes.

Q. What is your profession?

A. I am a physician.

Q. What is your present address?

A. Aeussere Prinzregentenstrasse 9.

Q. Where did you study medicine?

A. First, I attended the medical school at Vienna, and later on at Krakow where I also passed my medical service examination.

Q. When did you begin your practice of medicine?

A. In the year of 1931.

Q. Where was this?

A. In Krakow.

Q. How long did you continue your practice in Krakow?

A. Until the outbreak of the war in 1939.

Q. And what happened then?

A. After a regular appeal that the Polish citizens were to go towards the East, I went to the East.

Q. Did there come a time when you were sent to a concentration camp?

A. Yes.

Q. When were you arrested?

A. In the year of 1943.

Q. Where?

A. At Tarnow.

Q. And what happened after you were arrested?

* Complete testimony is recorded in mimeographed transcript, 11 April 1947, pp. 252-273.

A. I was sent to a concentration camp in Schoebnik.
Q. How long did you stay there?
A. For 45 weeks.
Q. Then what happened to you?
A. Then I was transferred to Auschwitz.
Q. With how large a transport did you go to Auschwitz?
A. There were quite a few people.
Q. Well, was there a trainload?
A. Yes.
Q. Were you transported in freight cars?
A. Yes.
Q. How many prisoners were put into each car?
A. Quite a number.
Q. Well, were there as many as 75?
A. It depends on the size of the freight car.
Q. Was it very crowded?
A. It was very full. They were fully occupied.
Q. How long were you on the road?
A. Approximately 4 days and nights.
Q. Did you have anything to eat or drink during this journey?
A. No.
Q. Did the prisoners suffer much during this transporting?
A. Very much.
Q. And what happened after your arrival at Auschwitz?
A. In Auschwitz each car was unloaded separately.
Q. Then what did they do. Go ahead and describe what happened to you after you arrived in Auschwitz, what happened to you and the rest of the transport?

A. When our freight car was opened up at Auschwitz, several people within the car almost fell out unconscious, and part of them were driven out with whips and beatings. We then had to place ourselves before the camp physician. This camp physician asked us for our age and our profession. He then pointed with a finger, so and so (indicating). I went this way, to the left. After our car had been unloaded, other cars were also unloaded, and they were given the same procedure.

When all the freight cars had been unloaded, we were sent with SS guards who were heavily armed, and we were surrounded by them. We were without shoes, without pants, without gloves. Then we were sent into the camp under severe beatings. We were also hit with rifles and bayonets.

In the camp itself, we were sent into a stable where we spent all night, and where we had to stand up all night long.

The following day we went to be tattooed, again under severe beatings.

Q. Were you tattooed?

A. Yes. I have the number 160879.

Q. Do you know whether they tattooed inmates in other concentration camps or not?

A. Only at Auschwitz.

Q. In other words, any inmate who has a tattoo on his arm was an inmate at Auschwitz; is that right?

A. Yes. That is correct.

* * * * *

Q. Witness, what happened to the group that was sent to the right, after the transport arrived?

A. After a certain number had accumulated, these people were loaded on trucks without any guards, and accompanied only by a single SS man who was seated in the front of the truck they were led out.

Q. And do you know what happened to them?

A. Yes.

Q. What?

A. In the camp we were told that all the persons who had stood on the right side, and all the persons who had been loaded on trucks were sent directly to the crematorium.

Q. Do you mean they were gassed?

A. First they were gassed, and then they were sent into the crematorium.

* * * * *

Q. Do you remember in the year 1944 whether or not there was a large number of transports of Hungarian Jews to Auschwitz?

A. Yes. That was in April, the end of April and perhaps in early May 1944. That is when large transports of Hungarian Jews arrived.

Q. And what happened to those Hungarian Jews?

A. They also were selected in the selection procedure, and a certain number of people were again gassed and cremated.

Q. Were there so many people being gassed at this time that the normal facilities were not adequate?

A. Do you mean the facilities of the crematorium?

Q. Both the crematorium and the gas chamber.

A. Yes.

Q. Well, will you tell us how they gassed those who were unable to go into the normal gas chambers? How did they take care of that?

A. They were cremated at Pszezinki.

Q. Did they have a large barn there into which they crowded the people and then dropped the gas in through the chimney?

A. No. It was a small barn, and it was usually known under the name of the "white house."

Q. And will you describe that to us, what happened there?

A. The people were crowded into this barn, and after the whole barn was already filled up with people the door was closed, and the gas was thrown in through certain flaps.

Q. And were the people always killed by the gas?

A. Yes, in part, but part of them remained alive.

Q. What did they do with those?

A. Those who were still alive were thrown into the fire.

Q. And was this a way of cremating the bodies; that they dug big ditches close to this "white house" in which they built a fire and cremated the bodies?

A. Holes were made there, and wood was placed into these holes. Gas was poured on the wood and then the whole thing was inflamed.

Q. Now, Witness, do you know whether or not they took the clothes and valuables, trunks, similar items, from the inmates at Auschwitz when they arrived?

A. Yes. All valuables were taken away from us and all our clothing. Our laundry was taken away from us also.

Q. Were there large quantities of clothing and shoes, valuables at Auschwitz which were taken away?

A. There was a very large number.

Q. Do you know what happened to that clothing and those valuables?

A. They were loaded and sent away.

Q. Loaded into what, freight cars?

A. Into freight cars.

Q. And was there a name around the camp by which these valuables were known, did the inmates have some expression they used with respect to the shipment of those clothing items?

A. Yes.

Q. What was that?

A. Well, it was usually said, "Here are the presents from Poland, for Pohl."

Q. Will you please repeat the answer?

A. It was usually said that these were presents for Pohl.

Q. And was that a common way of expressing these shipments of clothing and other valuables?

A. Yes. That is what was said.

Q. Do you know who Pohl was?

A. No. I did not know it at that time.

* * * * *

EXAMINATION

PRESIDING JUDGE TOMS: When you were arrested, Doctor, were you told the reason why you were being arrested?

WITNESS ABEND: No.

Q. Did you ever have a trial or a hearing before you were sent to the camp?

A. Never.

Q. In the cars—the freight cars in which you traveled—could the men lie down?

A. It was almost impossible.

Q. Why?

A. Because so many people were crowded in these freight cars.

Q. Was there any water to drink?

A. No.

Q. Were there any toilets?

A. No.

* * * * *

CROSS-EXAMINATION

DR. SEIDL (counsel for defendant Pohl): Witness, you have testified that you were born in Jaroslaw.

WITNESS ABEND: Yes.

Q. When the war broke out in 1939 you were told to go to the East?

A. Yes.

Q. What was the reason?

A. We were to report there to the military command.

Q. And you did so?

A. Yes.

Q. And then you were arrested in 1943?

A. Yes.

Q. And apparently, for the reason, as I thought from your answers, that you were of Jewish descent.

A. Yes.

Q. Now you are living in Munich?

A. Yes.

Q. According to your testimony I have to assume that you were mistreated by the Germans during the war, and I now ask you: What are the reasons that prevent you now from going back to your Polish fatherland? After all, you are a Polish citizen, aren't you?

A. Because I do not want to.

Q. Well, I am asking you, why don't you want to go back?

A. Because I have lost everything I had in Poland. I lost my

wife in Auschwitz, my child in Auschwitz; I have lost my apartment and furniture and all the property which I owned.

DR. SEIDL: No further questions, your Honors.

* * * * *

RE-EXAMINATION

PRESIDING JUDGE TOMS: When you were arrested, what happened to your wife and children?

WITNESS ABEND: On the second of October 1943, my wife and my child were sent away with a transport. Then, when I was at Auschwitz, I tried to obtain some information as to just what had happened to these transports—which at that time left from Tarnow, Czernow, [Chrzanow], Bocna, [Bochnia], Prozemi, [Przemysl], and Krakow. Then I was told they were all sent to the gas chambers and cremated.

Q. Did you have two children?

A. Yes. One child is with me.

Q. Did you ever see your wife and your other child after you were separated from them?

A. I never saw them again. The last time I saw them was at the parade ground at Tarnow.

Q. You have no idea of what became of them?

A. No, I only know that this transport, on the second or third of October 1943, left for Auschwitz; that all these people were immediately sent to the gas chambers without any previous selection.

Q. How were you able to save one child, the one who is with you now?

A. In the year 1942 when we were not as yet confined to the ghetto but when we were living in the Jewish part of town, then my maid took the child with her to a Polish village; and she kept it there. When I returned she had the child sent to me. It came to me in April 1946, to Munich.

Q. Then your child was saved by your maid, your servant?

A. Yes.

Q. It was protected until you were released?

A. Through the maid, through the servant, yes.

EXTRACT FROM TESTIMONY OF PROSECUTION WITNESS

DR. BERNHARD LAUBER *

DIRECT EXAMINATION

MR. MCHANEY: What is your full name, Dr. Lauber?

WITNESS LAUBER: Dr. Lauber. My first name is Bernhard.

Q. Your last name is spelled L-a-u-b-e-r?

* Complete testimony is recorded in mimeographed transcript, 11 April 1947, pp. 282-297.

A. Yes.

Q. When and where were you born?

A. In Wojnicz, Poland, 1911, on 3 November.

Q. Are you a Polish citizen?

A. Yes. I am.

Q. Are you Jewish?

A. Yes. I am.

Q. What is your profession?

A. I am a physician.

Q. Where did you study medicine?

A. In Bologna, Italy.

Q. Did you practice medicine before the war?

A. Yes.

Q. Where?

A. At Tarnow, Poland.

Q. When did you begin to practice there and how long did it continue?

A. In 1937, the second half, until the outbreak of the war when I went to a place near Przemysl where I continued my practice.

Q. How long were you there?

A. In Przemysl until 1943, until July 1943.

Q. Did you have to live in the ghetto there?

A. No. I did not live in the ghetto there because before July of 1943 all Jews were resettled, some of them were killed, and I was the only physician which was allowed to remain alive, I was passed over, I, my wife, and my little child who was 11 months old, because I was working in the hospital. My wife and my baby of 11 months were shot by the Gestapo. I was then in the hospital working there. The hospital was half a kilometer from my home. When I returned home at lunchtime, I found strange people who told me that my wife and my child had been shot and I was looked for to be shot myself. I then went into hiding into a farm where I remained for 2 weeks. Then I ran away from there. I walked to Przemysl, to the ghetto.

Q. Have you ever seen your wife and child again?

A. No. Never.

Q. And what did you do after you got to the ghetto?

A. I lived there under an assumed name. I got identity papers, and I was a street cleaner.

Q. Did there come a time when you were sent to a concentration camp.

A. That was in August 1943.

Q. And were you sent to Auschwitz?

A. No. I was sent to Schebnyk, that is in Polish Galicia. I was

there for about 9 weeks, and from there one day in the evening, with only underwear, without any clothes, without shoes, I was loaded on a wagon and sent to Auschwitz. That was roughly on 6 November.

Q. 6 November 1943?

A. 1943, yes.

Q. How many other persons were sent on this transport to Auschwitz with you?

A. Approximately 2,500.

Q. You were sent there in freight cars?

A. In cattle wagons, in movable cattle wagons, not wagons for persons.

Q. How long did the transport take to get to Auschwitz?

A. Roughly 3 or 4 days.

Q. Were you provided with food and water while you were on the transport?

A. Nothing at all.

Q. How many people were there in each car?

A. About 70 to 80 people.

Q. Were you able to lie down and sleep?

A. No. There was no room.

Q. And you say that you were not provided with clothes?

A. Only underwear, but no shoes.

Q. Now, what happened after you arrived in Auschwitz?

A. The wagons were opened and we were beaten while we got out of the wagons, and we were assembled in rows and a camp doctor asked us what our professions were. Some were sent to the right side and the others to the left side. The ones on the right-hand side were loaded on trucks. I said, "I am a physician. I am 32 years old," so I went to the left-hand side. The ones on the right-hand side sat down, and then they were loaded on trucks and driven away. I heard later, when I was in the camp, I heard that they had been sent to the gas chambers. We were driven to the camp barefoot. Snow was on the ground. It was November. We were given very dangerous beatings. One SS man yelled, "Beat fast," and the other SS man beat us, "and drive slowly." So under beatings we arrived at Auschwitz. I remember very well when I entered the gate an SS man showed me the chimney and said, "Come along, there is only one road to freedom here, that is the chimney."

Q. How long did you stay in Auschwitz?

A. About 1 year.

Q. What work did you do while you were in Auschwitz?

A. I was what was called a nurse in one block.

Q. What was the number of the block?

A. It was—I worked in block 6 the quarantine station, and then in the hospital of the camp F, which was block 15.

Q. Do you know the name of the doctor who made the selections of prisoners in your transport?

A. Dr. Mengele and Dr. Tilo.

Q. Now, Dr. Lauber, are you able to tell this Tribunal, from your observations in Auschwitz, that large numbers of people were being exterminated there?

A. No. I cannot give you the figure but it must have amounted to millions. I cannot say the exact figures. I cannot estimate it.

Q. Do you remember the arrival of Hungarian Jews in 1944?

A. I remember that very well.

Q. When did these transports arrive with Hungarian Jews?

A. These transports arrived between May and July, three or four trains a day, roughly three or four trains per day. They arrived either by day or by night. The tracks were in the camp, and from my place of work I could observe when these transports arrived. The transports were lined up in rows, and Dr. Mengele and Dr. Tilo and other SS men stood there, and Dr. Tilo or Mengele pointed with his thumb, his right thumb, right-hand side, left-hand side, and I remember even that on that occasion he whistled a sort of tune. The people who went to the right-hand side remained near the train, and the ones on the left-hand side went to camp. The trucks came along, and the people who stood near the train were loaded on the trucks and driven away towards the crematorium.

At that time we saw how all the chimneys of the crematorium were smoking, and the holes which had been dug near the crematorium showed big fires.

Q. Did these transports of people in Auschwitz, did these persons bring with them trunks of clothing and other personal effects?

A. Yes. They brought everything along. Some of them were very well dressed.

Q. Do you know whether or not these Jews who were sent into Auschwitz were told that they were being resettled?

A. The Jews said that they were being sent to Poland to do some work.

Q. But I mean, when the Jews for example, were evacuated from the ghetto, were they told that they were going to be resettled by the Germans and that they should bring along all of their movable effects, all of their movable property?

A. Yes. They were told to bring everything along. When they left the train in Auschwitz, everything was taken away from them.

Q. You say everything was taken from them in Auschwitz?

A. Immediately, they had to leave everything in the train. That

was a special order. So a group of inmates formed and occupied themselves with taking the things away from the people on arrival.

Q. And were they forced to surrender the clothes which they were wearing?

A. No. Not at the train. The clothes were taken away from them when they took a bath.

Q. Now, do you know what happened to this property which was taken from the inmates when they arrived, clothing?

A. Yes. All clothing was assembled in the so-called material camp and from there it was sorted out and loaded on trains, and called "presents for Pohl." It was sent to Germany.

Q. Do you know whether the hair was shaved from the heads of the women before they were executed?

A. Yes.

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EXTRACTS FROM TESTIMONY OF PROSECUTION WITNESS
JERZY BIELSKI *

DIRECT EXAMINATION

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MR. ROBBINS: Was there a time in June 1943, when some prominent visitors came to Auschwitz?

WITNESS BIELSKI: Yes. That was in June 1943.

Q. And will you describe to the Tribunal the circumstances of that visit and the basis of your knowledge?

A. On this day, aside from the command of the electric and construction detachment, we inmates, a Kapo and one SS foreman, were sent from Auschwitz to Birkenau approximately at 7:30, and we arrived there and began some construction work. In this case we were to establish an electric line to camp F, to Birkenau, and this was part of the camp at Birkenau. We worked there and approximately around 10 o'clock in the morning in very good visibility, and the weather was very good, several cars drove out with SS officers, and they stopped at the hill. We already had heard from the day before that inspection of the camp was to take place by Obergruppenfuehrer Pohl, the Director of the Central Administration Agency of the Main Office. However, we were very surprised that he had arrived already so early in the day. They were located approximately from 60 to 80 meters away from the gas chambers. Behind the gas chambers there was crematorium number three. Thus we were able to observe the whole

* Complete testimony is recorded in mimeographed transcript, 11, 14 April 1947, pp. 302-319 and 341-399.

occurrence very well. The whole group of SS officers among them Pohl, whom we had already seen in camp at an earlier period of time after I had been in camp for 3 months, he left his car, and then they walked over to the crematorium. They spent several minutes in the crematorium, and then they again went outside and they went to the gas chamber, and after a short time all of them went downstairs and entered the gas chamber. They remained there for approximately 45 minutes to 1 hour. After this time, they again came outside and then all of them were engaged in a discussion, and then first one car and then three trucks loaded with sick and exhausted prisoners came from the direction of Auschwitz. The cars came from the main road to the crematorium, and then approximately 30 people from the special assignment came and threw the patients and the sick people off the trucks. Then the trucks left and went back to Auschwitz and the prisoners from the special task groups all took the sick people who had been brought there into the gas chambers, carried them on stretchers, and they also carried them without stretchers. Ten minutes later an additional number of trucks arrived loaded with prisoners. There were approximately four or five, and in each truck there were approximately 25 to 50 people. Several of them were lying in the trucks and others were still able to stand. All of them were only dressed in a very short shirt. It was very short. They did not have anything else. And then the same story repeated itself. People were thrown off the trucks and they were carried into the gas chambers. Then two SS men appeared. They were lower, they were non-commissioned officers of the SS. Then came an ambulance with a red cross on it and which brought several tins. Already at that time, we knew that the tins were filled with cyklon gas.

This was not a secret, because approximately 100 meters from our camp at Auschwitz there was a so-called theater building where these tins of gas were stored. At that time we knew that these tins were filled with cyklon. The two SS men then walked over with these tins to a window of the gas chamber. The windows were above ground; the gas chamber was below the ground. The window worked from above. Therefore the windows could be opened and one could look at the prisoners inside, and it was also easy to throw in the tins of gas. The SS men stood by the windows, but they did not, as yet, throw the tins of gas inside, and then Pohl would come, escorted by five SS officers, and all the guests who had come from Berlin walked over to the window, and then he looked through the window for about 15 minutes. He looked below and watched the inmates who were inside in the gas chamber. Then Pohl went back with his escort, from the gas chamber.

Q. Excuse me. Where was Pohl and his party standing when the SS man took the tins of gas and dropped them in the gas chamber?

A. They stood over the gas chamber, approximately one meter away from the window. Then I observed that after the tins were thrown in, the window was closed. And the whole thing lasted for approximately 15 minutes.

Q. Then where did Pohl and his party go?

A. Then again he went in the direction of the street, where the other group of officers were standing. And then another four or five approached the gas chamber. They approached the window there, which I was able to observe, and they did the same thing that Pohl did, that is, they looked through the window and observed. Then after 20 minutes when all of them had observed this thing sufficiently—I believe that you did not understand me correctly, because I have said that the SS people who threw these tins did not yet throw the tins, but stood around a long period of time with these tins in their hands, and all the officers who were with Pohl, and Pohl himself, observed the prisoners in the gas chambers before the tins were thrown in. Then after all of them had looked into the gas chamber, then, upon the order of our section chief, Unterscharfuehrer Jenne and the camp leader of Auschwitz, the deputy of the camp leader Hoffmann approached our group and told our chief, “now you beat it for half an hour; you go in this direction.” Then our chief lined us up in five’s and we marched off. We went as far as a barn in the village, Babitz. That village was already smashed and several camps had been established there, and we went there and we sat near a barn and we rested for about a half hour. Then we came back and Pohl with all his officers were no longer at the gas chamber, only because they were still standing there. They were still standing where they were, on the road. And then we started to work and 10 minutes afterwards Pohl—and this time he was accompanied by Hoess—he and Hoess were the two first and then the others. Also, they came to the gas chambers, and Pohl and Hoess looked through the windows and then some of the others looked through the window, then they left the crematorium.

Q. Excuse me. This was about how long after the tins of gas had been thrown into the crematorium, that Pohl and his party returned?

A. Half an hour. We assumed that immediately after we left the tins were thrown inside, and we stayed in the other place a half an hour. After 10 minutes Pohl appeared once more. So the whole matter lasted 40 minutes. This was after the tins were thrown.

Q. Then were the bodies removed from the gas chamber to the crematorium?

A. Yes. As I looked again, they were all there, between the cars and the crematorium, and during that time about a hundred inmates from the special task groups came from the direction of the crematoriums one and two, and they together with the others who were already there opened the gas chamber and dragged the bodies out of there and brought them to the cemetery. They had a sort of small stretcher and they had also small carts with one wheel and two handles.

Q. About how many truckloads of prisoners did you see taken from the gas chambers?

A. Altogether there were approximately nine to ten trucks in the first part, later approximately 13. I cannot state that exactly. Then a few additional ones arrived. I assume that altogether there were about 20 trucks. Then there was a second portion in the afternoon.

Q. Did Pohl and his party watch the same proceedings in the afternoon?

A. Yes.

Q. About how many people were in Pohl's party?

A. Twenty-two or twenty-three.

Q. Were they all SS men?

A. Most of them. There were two civilians.

Q. Will you tell the Court again how close you were to the crematorium and the gas chambers, where it was that you were working?

A. Approximately from 60 to 80 meters.

Q. And then did Pohl and his party after leaving the gas chamber walk in your direction?

A. He was very close to us on two occasions, and he asked our chief about our work. At that time he was about 2 to 3 meters away from me, the others also. Among them there were officers from Auschwitz, Hoffmann, Grabner, Hoess, Wosnitza from the political department, also Emmerich, Boger, and Lachmann.

Q. How do you know the names of all these people you have enumerated?

A. They had a very bad reputation throughout the camp. People like Grabner, or Hoffmann, Hoess, Boger, or Lachmann—everyone was afraid of them.

* * * * *

Q. Will you tell the Tribunal again what kind of work you were doing in Auschwitz concentration camp in the middle of 1944?

A. I was always in the electrical detachment, first as an assistant

worker, then as a skilled worker, and sometimes as a clerk of the detachment.

Q. Did you in any of your work come into contact with work on the crematoriums or gas chambers?

A. Yes. I worked everywhere because our detachment had to work everywhere. All installations, all constructions, all electrical equipment was our job, and I worked in the crematorium or gas chambers in Auschwitz perhaps 20 or more times.

Q. Did you have anything to do with requisitioning material for those places?

A. Yes, indeed.

Q. What was your job in that connection?

A. As clerk I had to keep a list of the requirements of the material that was needed for the work which the detachment carried out, and I also had to specify the quantity and the kind of materials. Then they were assigned by the chief of the detachment, and the requirements were approved by the head of the electrical department in the construction detachment concerned. Then they came back to me, and I took the people and the trucks, and I went to what is called the construction place where I actually picked up the material from the magazines. Therefore, I know how this whole machinery for obtaining material looked.

Q. Do you know to whom the requisitions were sent in the WVHA and where the material came from?

A. The material, the whole of the material which was collected in the construction building came through the assistance of the department [office] C VI of the WVHA, and that was mentioned very often on the memoranda. They were always printed WVHA, department C VI, and all the trucks which were in the courtyard of the construction place came from that department too.

Q. Was any man's name mentioned on the requisition slips?

A. Yes.

Q. Who was that?

A. The names of Bischoff and Eirenschmalz.

Q. What kind of material, will you tell the Court, did you obtain from Eirenschmalz and from C VI?

A. The whole of our material, our electric equipment and other material, timber, all that sort of thing, all that we needed to carry out our task, we received from C VI through the assistance of the construction building.

Q. Did you see Bischoff in the camp?

A. Yes. Indeed, I have.

Q. Did you see Eirenschmalz in the camp?

A. Eirenschmalz I saw in the construction yard.

Q. That was in Auschwitz, was it?

A. Yes. It was in Auschwitz roughly six or seven hundred yards from our place of work, from our quarters.

Q. How many times did you see Eirenschmalz there?

A. I remember one particular occasion when I saw Eirenschmalz. That was the end of summer of 1944. At that time [our jobs] were to be liquidated, and a commission arrived consisting of about six or seven people—higher officers and SS officers—who came from the department construction, and they inspected the construction yard, and consulted among each other how the construction yards could best be liquidated, and at that time I saw Eirenschmalz together with Bischoff.

* * * * *

Q. Herr Bielski, do you recall a time in the middle of 1944 when Hungarian transports were brought into Auschwitz concentration camp?

A. Yes. I do. There were many transports which reached Auschwitz at that time. For 4 or 5 months Hungarian transports kept arriving, and just as in the case of the earlier transports, for gassing. They brought many pieces of valuable property. That was why in Auschwitz, opposite the SS kitchen and behind the so-called theatre building, there were six or seven wooded barracks in which there was a detachment consisting mostly of Jews, who worked there. Their task was to collect all of the shoes which had belonged to the gassed people. They had to search these shoes, tear off the soles and then take out things like gold, jewels, and money and hand them over to the inspectors for the SS. At that time, every day there were more than ten thousand shoes, for instance, which were handed in, and after the searching most of those shoes were burned in a nearby pit.

Q. Did you see the barracks where the shoes were inspected?

A. Yes.

Q. Did you see some of the shoes after—

A. Yes. Indeed, I did.

Q. Do you know upon whose order this searching of the shoes was instigated?

A. Yes.

Q. And will you tell us how you know that?

A. I know that that happened upon orders from Pohl and that the work was carried out on Pohl's orders. Two German Kapos and an SS man of the construction detachment told me that after Pohl's last visit to Auschwitz the SS men actually said that our leaders reached the decision at that time that shoes should not be destroyed altogether, and all the money which might be in the shoes should be taken from the shoes and then handed over.

Q. On Friday you testified that you saw certain inmates who

were taken into the gas chamber in Auschwitz at the same time that Pohl was there.

A. Yes.

Q. Will you tell us what physical condition those inmates were in?

A. At that time, in that particular case, I saw very well that the inmates were ill, very weak physically, and they all came from the hospital in Auschwitz. They had been taken from the hospital, or otherwise they were emaciated prisoners of the camp who had no strength left at all. They were weak persons who were incapable of doing any more work.

Q. Were all of them weak, as far as you could see?

A. In this particular case, certainly, and they were almost naked. They had only small pieces of shirts on them. That indicated that they all came from the hospital or so-called ambulances and were sent there in an ambulance, and they had left their clothes behind in the hospital.

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CROSS-EXAMINATION

DR. SEIDL (counsel for defendant Pohl): Witness, on Friday you said that you yourself had observed gassings at Auschwitz. Where was the building where you say you observed people being gassed?

WITNESS BIELSKI: These gassings to which I testified took place in the gas chamber near crematorium three.

Q. Is that inside the camp or outside the concentration camp?

A. That was inside the big guard compound of the camp, Birkenau, and it was near the barracks of Birkenau.

Q. Do you know whether there was a camp in Auschwitz called Monnowitz?

A. Yes. It is known to me.

Q. What did the building look like where you saw people being gassed? Can you give a precise description of it?

A. That was not in Monnowitz; that was in Auschwitz.

Q. What did the building look like?

A. It wasn't a building; it was a subterranean cellar and it was about 30 meters long and 15 meters wide. All you could see from above was a little hill or something which was about a half a meter above ground, and in the middle of this there was a window and the entrance was on the left-hand side. The entrance was inclined to the left and there were three or four little steps which led downstairs. Later on the gas chamber was changed, perhaps 3 or 4 months later on. Later on there was no more entrance from the outside, only indirectly from the crematorium; but at first the

entrance was from the outside—and at that time from the window which was made in the workshop next to our own workshop. I know that later on the building was changed and the gas chamber was changed, instead of the window there was a little opening which was used.

Q. And at what time do you allege to have observed these things?

A. I observed this from 10 o'clock in the morning until we finished work; that is to say, half past 4.

Q. If I remember correctly, you said on Friday that this was in June 1943.

A. Yes. In June 1943.

Q. At what distance were you from the gas oven?

A. It wasn't a gas oven, only a sort of gas cellar. We were not always standing at the same point. We changed our place. Sometimes we were 40 meters away from it and sometimes 80 meters.

Q. You alleged that you saw the defendant Pohl both in the morning and afternoon?

A. Yes.

Q. In the afternoon there was a large number of persons present, as you said on Friday. Who else was there with Pohl? Did you recognize anybody in Pohl's staff?

A. I counted them very well. There were 22 or 23 people. Almost all of them were guests. There were only 16 permanent members of the Auschwitz staff. The others were all guests of Pohl's; they came from the outside. There was Bobermin, and two civilians were there. We were puzzled why there should be civilians, but we didn't find an answer.

Q. Is it known to you that SS Gruppenfuehrer Gluecks was at Auschwitz?

A. Glueck? What was the name, Glueck?

Q. Gluecks.

A. Yes. He came to Auschwitz, but I didn't see him on that occasion and I didn't see him from very close. All inmates knew that sometimes the Lieutenant General of the Waffen SS and Obergruppenfuehrer Glueck, or Gluecks, would come to the camp; but whether he was there on that particular occasion I am not able to say now.

Q. How often had you seen Obergruppenfuehrer Pohl before, before June 1943?

A. Before then I saw him perhaps five times, before June 1943.

Q. And you think it is out of the question that in June 1943, you might have confused persons, and that you saw somebody else whom you thought was Pohl?

A. I know very well that it was Pohl at that time, near the gas

chamber. I saw him in the afternoon when he was very close by and he asked the leader of our detachment what we were doing and our detachment leader reported to him. Pohl looked at us and looked at every single one of us, at what we were doing, and he stood there for about 15 minutes and talked to other officers. He talked about the electric installations, the extension of the electrical network in that particular part of the camp.

DR. SEIDL: I have no further questions.

DR. VON STEIN (counsel for defendant Eirenschmalz): I believe I understood you correctly to say that you saw Eirenschmalz in late summer 1944, in Auschwitz, is that right?

WITNESS BIELSKI: Yes. That is right, I saw him.

Q. Did you know Eirenschmalz before then?

A. Only from hearsay. I heard about him. I heard about him, yes. I knew his reputation, I knew that he was in the department C VI. I always saw the forms which he signed, and I knew that he was the head.

Q. But when, in the summer of 1944 a person turned up whom you think and assume was Eirenschmalz, how did you know it was Eirenschmalz? Did you talk to him?

A. No I never talked to him, but at that time the Hauptsturmfuehrer Stiller who was in charge of the construction yard told me that I should take the whole of my electrical equipment; I should fetch it as quickly as possible because that day an inspection would be taken by Eirenschmalz, by Obersturmbannfuehrer Eirenschmalz who was in charge of all the construction matter. I told him, well, I would do everything in order to take all these things away.

Q. But you haven't answered my question correctly. I want to know precisely, when this commission of which you talk now turned up in the camp, who pointed out Eirenschmalz to you and said, "This is Eirenschmalz?"

A. That was the head of magazine 14, an inmate, a man called Dobraniewski. He told me because he had spoken a few times personally with Eirenschmalz when Eirenschmalz came there in order to inspect the electrical magazines, and he knew—the inmate knew—very well who Eirenschmalz was, what his office was, and so forth.

Q. But you had no personal interest to see Eirenschmalz on that day?

A. No. I had no interest, I had no reason to talk to him. I merely observed at that time that the commission was there, what they did, and I heard on that occasion that the man who was always with Bischoff was Eirenschmalz, the head of department C VI.

Q. What did Eirenschmalz want in the camp on that day?

A. The camp was to be liquidated on that day because the Russian troops were very near. I think they had reached Lublin on that day, and the camp had to be evacuated very quickly, and the construction yard, the material, was to be evacuated before the people. At that time we knew that that would happen in the next few days. Also, we knew that before then a commission was to come which had to decide how the evacuation was to be carried out; and actually, two days after Eirenschmalz's visit, the material and the construction were divided up. Some of it was sent to Lissa, Breslau, and Groslow, and the other part of the material was sent somewhere else.

Q. Now, this construction yard of which you talk so often, did that come under another department than C VI?

A. The whole of the construction yard was under the department C VI. All magazines belonged to one department, which was department C VI. I went to all magazines and I obtained material for our workshop from all magazines, and I always saw on all the forms which were necessary—I saw department C VI.

Q. Is the organization known to you at all? That is, take, say, what department belonged to the building Inspectorate. Do you know anything about that sort of thing?

A. The department C VI was in charge of—was divided up into various offices. I don't know * * *. But all I know is that the whole of the construction yard belonged to department C VI. All material was administered by department C VI.

Q. You always speak of a subdepartment. I wish to point out here * * *. Department C VI—but I am asking you whether you know the other building departments. Do you know anything about them—other departments?

A. Yes. The other departments * * *. No, I had nothing to do with other departments.

Q. How can you then say that the building yard was under department C VI? I can point out the contrary is true. I should like to know how do you know? How did you gain the knowledge?

A. On all the forms it said department C VI; and in the office of the building Inspectorate there were several orders, directives, instructions, and so forth, which were on the wall, and they were always signed "Eirenschmalz," or someone else as deputy. But it always said "department C VI, of the WVHA."

Q. You say, Witness, someone else, as deputy. Who was the deputy who signed for Eirenschmalz?

A. Who was his deputy, you mean?

Q. I would like to know his name.

A. I think there were two or three others. Only very rarely did somebody else sign for Eirenschmalz.

Q. How often did you see Eirenschmalz there? How often?

A. Well, I saw him clearly once, and before then I heard once or twice that he was the head of department C VI. There were other visitors, but I hadn't seen him myself.

Q. How is it possible then that after so long a time after you said you have seen him only once—how is it possible that you identified him?

A. My memory is excellent.

* * * * *

Q. Now, I would like you to tell me what did Eirenschmalz have to do with supplying building material to the camp? After all, material was there.

A. Eirenschmalz was the highest administrative officer as far as material was concerned, and he was in charge of all this building yard—not only of the one in Auschwitz but all those other camps.

Q. Therefore, I cannot see why Eirenschmalz should pay a visit at all. The material was there, after all, and—

A. Somebody had to decide what had to be done with this enormous material. The material which was collected in Auschwitz amounted to millions. It was very valuable. I think it was the biggest collection of material I have ever seen in all my life.

Q. If I understand you correctly, what happened was this: building material was there on the spot in sufficient quantities—even in very large quantities?

A. Yes.

Q. The purpose, as you see it, of Eirenschmalz's visit was merely for Eirenschmalz to give some orders on the transfer of material already there?

A. Yes.

Q. That was the purpose of the visit; that was why Eirenschmalz came to Auschwitz.

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DR. SEIDL (counsel for defendant Pohl): Witness, upon the question of the counsel for the defendant Bobermin, you stated that it was not very difficult to come near the gas chambers. You remember that, don't you?

WITNESS BIELSKI: I myself worked in the gas chamber. Our commando [labor detachment] was granted permission to go there, because we had to carry out work there.

Q. The other statement you made was the one in which you stated that during the whole period of time you were in Auschwitz the camp commander was Rudolf Hoess.

A. No. I never said such a thing. I said that Hoess was one of them, then Liebehenschel and after that Baer, and then Hoess again.

Q. However, you are of the opinion that the commander, Rudolf Hoess, has a very good knowledge of the situation in Auschwitz?

A. Hoess? Yes. I think so.

Q. All right. I will show you now a statement—or at least put before you a statement—as it was made by Hoess before the International Military Tribunal. The statement was made on 15 April 1946. It is on page 7,800 of the German record. Hoess was asked the following question: “Would you describe in a very few words if it is correct that the concentration camp of Auschwitz was entirely isolated and what measures were taken in order to carry out the tasks to which you were assigned?” To this question the answer Hoess gave was—

“The camp of Auschwitz as such was three kilometers from the city itself. The surroundings had been cleared of all the previous inhabitants there and the whole area could only be entered by SS men with special passes. The actual camp of Birkenau, namely where the exterminations took place, was built later on, and was two more kilometers from the camp of Auschwitz. The installations themselves, that is, the provisional installations used at the beginning were inside the woods and they could not even be seen from there, and could not be seen from far away.

“That special territory had been declared off-limits and could not even be entered by the SS members—or only could be entered by SS members who had a very special pass. That is how, according to human recollection, none was in a position to enter that territory except for those mentioned with the passes.” Just a moment, Witness; I shall ask you now. Do you still stick to your statement that you approached the gas chambers at about a distance of 160 meters?

A. Yes.

Q. And you saw the defendant Pohl?

A. Yes. The statement made by Hoess I shall call a lie because what we knew in that respect was much more than what Hoess wanted to say in his statement.

Q. And you call Hoess' statement a lie?

A. Yes.

Q. Even if I tell you that he was a witness for the prosecution?

A. The city's distance was three kilometers; Birkenau was two kilometers from Auschwitz. That is correct, too. However, that the crematoriums were in the woods is not true because in 1944 camouflage nets were used. In other words, artificial trees. But that did not apply either because the woods were behind the crematorium two; behind crematorium three there was nothing but logs, and when we worked there as electricians—and I saw

the gas chamber several times—then we could always speak with the people who were going to be gassed; those who had just arrived from Holland, France, and Hungary; and we could see everything. Then, I am not the only one who can actually assert that—but I can get you all the men from my commando to testify to that effect—who will state exactly the same things as I am stating. I, myself, worked in the crematoriums, and I worked in the gas chambers, and I worked everywhere. For us there was no single place where we could not enter. We carried on all the work there, and apart from that what Hoess said, namely, that only SS could approach the camp or the territory around it, is not true either, because there were approximately five thousand civilians there. They worked within the premises of the camp—if not right near, and they worked in the various installations and the works that were carried out there, and that was their particular firm where these people were assigned to. Apart from that, several high ranking officers came from outside of the camp and we all knew about it. We knew that Hoess and others came to see the camp.

In other words, if they just came out of pure curiosity, then they had to see to it that Hoess could get the permission to come and visit the camp. We saw several curious SS men, and Germans who came into the camp.

DR. SEIDL: That is enough.

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RE-DIRECT EXAMINATION

MR. ROBBINS: Just a few questions, your Honor.

Herr Bielski, you just mentioned camouflage of crematoriums and gas chambers. Would you give us a little more detail on the camouflage phase?

WITNESS BIELSKI: Well, at the time when we worked there, there was no camouflage. Camouflage was used only after the arrival of the Greek transports. That was perhaps towards the end of July or August 1943. That was when the Greek transports arrived from Greece, and at that time the crematoriums worked very often, and it was quite obvious for all the inmates in the camp could see it.

All the people were sent to the crematorium—prior to that time the gas chambers, and that was the reason why camouflage was used at the time. That was the artificial trees I mentioned before. The trees of Babitz were cut off and they were set in there, and there were two rows of those trees right around the crematorium and the gas chamber, and apart from that—I believe that that was

later on—a sort of fence was placed around the trees, just small poles, and on that fence one could see small pieces of rags. Later on, when we could no longer enter one could not see how the people were sent to the gas chambers. All we could hear were the screams and we could see the pile of smoke coming out of the chimney of the crematoriums, and we also used some sort of a camouflage—that was in 1944; that was when the Hungarian Jews arrived—we used a music camouflage. At the time the children were burned on big piles of wood. The crematoriums could not work at the time, and therefore, the people were just burned in open fields with those grills, and also children were burned among them. Children were crying helplessly and that is why camp administration ordered that an orchestra be made by a hundred inmates and should play. They played very loud all the time. They played the Blue Danube or Rosamunde; so that even the people in the city of Auschwitz could not hear the screams. Without the orchestra they would have heard the screams of horror; they would have been horrible screams. The people two kilometers from there could even hear those screams, namely, that came from the transports of children. The children were separated from their parents, and then they were put to section III camp. Maybe the number of children was several thousand.

And then, on one special day they started burning them to death. The gas chambers at the time were out of order, at least one of them was out of order, namely, the one near the crematorium; it was destroyed by mutiny in a special commando in August 1944. The other three gas chambers were full of the adults and therefore the children were not gassed, but just burned alive.

When one of the SS people sort of had pity with the children, he took the child and beat the head against a stone first before putting it on the pile of fire and wood, so that the child lost consciousness. However, the regular way they did it was by just throwing the children onto the pile.

They used to put a sheet of wood, then the whole thing was sprinkled with gasoline, then wood again, and gasoline and wood, and gasoline—and then people were placed on there. Thereafter the whole thing was lit.

Q. And what period of time did that continue, Herr Bielski?

A. With the children, you mean?

Q. Yes.

A. That was during those 3 months when most of the Hungarian transports came in; that was June 1944, July, and August; approximately around that period of time. However, what I men-

tioned about the orchestra was around the end of August. Several thousand children were burned to death alive.

[Witness Bielski also testified that he had seen defendants Bobermin and Sommer at the Auschwitz concentration camp.]

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EXTRACTS FROM TESTIMONY OF DEFENDANT POHL ¹

EXAMINATION

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PRESIDING JUDGE TOMS: But what about the intentional extermination program? That was started long before the collapse of the German defense,² or don't you know anything about that either?

DEFENDANT POHL: Mr. President, I do not know what extermination program you are referring to. I do know that the transfer of the camps further into the Reich and that the placing of these masses within the Reich were based on an extermination program.

Q. I am talking about the intentional extermination of the old, the sick, and the Jews; whether they were able-bodied or not; by shooting, by hanging, and by gassing, especially at Auschwitz. Didn't you know anything about the extermination at Auschwitz?

A. Of course I had knowledge of it. The whole extermination program, which was directed against the Jews, was an action which was channeled through the RSHA and for which Eichmann organized transports of Jews who came to Auschwitz and were exterminated by Hoess. That program had nothing to do with the concentration camps as such, and the existing concentration camps were actually misused in this respect. The documents and the reports for this program, as far as I am informed, did not even go through the Inspectorate of Concentration Camps. This was all carried out in a very small circle.

Q. But on a very large scale?

A. Well, I had the first authentic figures after the war. At that time I did not have any idea at all that this number extended to millions. The whole program of the extermination of the Jews was dealt with by Amt IV of the RSHA, and the organizer of the transports was a certain man named Eichmann who sent these transports to Auschwitz, and there these transports were exterminated by Hoess, who in this case did not act as camp commander but as commissioner of Himmler or the Reich Government.

¹ Complete testimony is recorded in mimeographed transcript, 16, 19-23, 27-29 May; 2, 3 June; and 25 August 1947; pp. 1253-2040, 6759-6786.

² The testimony immediately preceding this question is reported in the section on "Concentration Camp System," p. 348. The reference in the question is to Pohl's statement that conditions in concentration camps had deteriorated in the last phase of the war.

Q. Were you in charge of the concentration camps while this program was being carried out by RSHA?

A. I do not know when this program started.

Q. Well, no matter when it started, was it being carried on at any time while you were in charge of concentration camps?

A. Whether in the year 1942 or 1943 this extermination was still carried out I don't know. I don't know how long it lasted.

Q. Well, it is your contention they just borrowed the concentration camps to carry out the extermination program?

A. That is my opinion, yes.

Q. Just one second. In order to carry out the extermination program they had to build gas chambers at the concentration camps?

A. Yes. But I did not have any gas chambers constructed. I did not give any order whatsoever that gas chambers should be established.

Q. Well, were they constructed while you were in charge?

A. I do not know exactly in what years the gas chambers at Auschwitz were erected.

Q. Well, no matter when they were erected, were they there and operating while you were in charge?

A. As long as Jews were exterminated the gas chambers were working and operating.

Q. And was that while you were in charge of concentration camps?

A. I cannot say that, because I have visited Auschwitz only once in 1944 and perhaps twice in 1943. At that time I did not see that Jews were being exterminated. I, therefore, do not know how long this program was underway.

Q. Did you see any gas chambers when you were there?

A. I have seen the gas chambers as buildings in the distance, yes.

Q. You knew they were there.

A. Yes. I knew that.

Q. What did you think they were being used for?

A. I knew that Jews were being exterminated and that the gas chambers were being used for that purpose.

Q. And when you saw them and knew that Jews were being exterminated, you were in charge of that concentration camp?

A. Yes. The gas chambers were standing there until the last day. They were standing there also when the concentration camps were subordinate to me. They were not destroyed previously.

Q. Nor afterwards. They continued to be operated after you were put in charge?

A. As far as the extermination of the Jews was carried on, yes, but I do not know how long this continued.

Q. Well, at least it continued as long as you were in charge.

A. I do not know how long it was continued. I do not know when the last Jews were exterminated.

Q. Well, you are trying to evade it, perhaps not intentionally. At any rate, after you became chief of the concentration camps, the gas chambers at Auschwitz and elsewhere continued to work?

A. I assume that, yes, naturally.

Q. Did you ever do anything to find out why people were being gassed to death, or did you ever protest against that program?

A. On two occasions I discussed with Himmler the entire Jewish extermination program. The first time it was approximately in the spring of 1943. At that time I had discovered, on my trips to Oranienburg, that the Jews whom I always used to meet when they came out of the Schering Works in the afternoon in large numbers, and who worked there as laborers, suddenly did not appear any more. The streets were empty. This attracted my attention so much that I pointed out this fact to Himmler during my next discussion, and I asked him why the Jews had been taken away from there and he told me, "Well, all the Jews from Berlin are now being sent to Theresienstadt." I considered this statement to be true at the time. I discussed this matter the second time with Himmler after the speech at Poznan. That was in October 1943. That was the first time, at Poznan. He told the SS Leaders that the Jews were to be exterminated. This was the first official notification which came to my knowledge. After this speech I talked to Obergruppenfuehrer Schmidt, von Herff, and other comrades, and we discussed the thing over the table. Their concepts of this speech and their opinions were not uniform at all. To the contrary, we were rather surprised about the way in which the Jewish question was now to be solved in such a brutal manner. For this reason, on the occasion of our next meeting, I again talked to Himmler about this, because I had been assigned the labor allocation. Otherwise I wouldn't have talked to him at all. We discussed labor allocations. On that occasion I told him that I still considered it stupid now, at the time when all the labor was so valuable to us, that I considered it madness to exterminate these people now. He became very angry, then he pressed his lips together and told me, "Well, that is none of your business. You do not know anything about this, and furthermore, you are too soft." Then he went to the adjoining room. He left me standing there, and approximately after 5 minutes he returned, and then he dismissed me by saying, "I have nothing further for you." Besides this I had no discussion with him about that.

Q. Your objection to the extermination program was that it was interfering with your labor supply?

A. As I have already stated, I probably would have never even been able to talk to Himmler if I had started any other way. I was fundamentally opposed to the entire question, because the solution to the Jewish question, if it was necessary, in this form seemed to be most inappropriate.

Q. But the only objection that you expressed to Himmler was that his program was killing off a lot of your valuable workers.

A. With this argument I tried to bring about a discussion, and I have already stated there was no other argument with which I could have started an argument with him at all, but even this method failed.

Q. You didn't try the argument that this was wholesale murder?

A. I did not use this argument, which was clear to me, because this would have caused him much less to have started a discussion with me. I had to bring him into a situation which would throw him into a discussion, but even this method failed.

Q. Did it occur to you that it was wholesale murder?

A. Of course I considered this as mass murder, and I still consider it that today.

Q. But you went right back to the concentration camps and continued to administer them?

A. These gas chambers were only at Auschwitz. I did not see any other extermination facilities at other camps.

Q. Didn't you see the one at Dachau?

A. No. I never saw it.

Q. Have you never seen it?

A. No. Not one at Dachau. I never saw it.

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DIRECT EXAMINATION

DR. SEIDL (counsel for defendant Pohl): I shall now proceed to the discussion of the documents which the prosecution introduced in evidence with regard to the question of the extermination of the Jews. In other words, I shall turn to those documents contained in document books 18 and 19. Witness, you joined the National Socialist Party very early, didn't you? What was your opinion concerning the Jewish question yourself to which the Party program takes up some position, and what is your opinion on the solution of this question?

DEFENDANT POHL: When I joined the Party neither Jewish questions nor other racial questions moved me to join the Party, and as I have stated on the first day of my examination already, it was my interest in the social sphere of the life of the German

laborers that moved me to join the Party. Apart from that, only defense questions played a part in that because I was a soldier. At the moment I joined the Party I did not deal with the Jewish question, nor did I deal with any other racial questions, and only after that I learned more facts about it through literature and other publications. With regard to the Jewish question, as I personally had no opportunity to gather experience of my own, I had no actual opinion on that. Therefore, I saw no necessity for the solution of the Jewish problem from my own experience. That was the reason why I didn't deal with that question, neither politically nor propagandistically.

Q. The prosecution introduced as Prosecution Exhibit 457 an excerpt from the sentence of the International Military Tribunal which deals with the persecution of the Jews, in document book 18, on page 1 in both the English and German texts. This is document NO-2610,* and I ask you, Witness, when were you for the first time aware of Hitler's measures, the aim of which was the extermination of the Jews?

A. Measures, having heard of measures? Well, after all we all went through those things in Germany. That is, the measures that were taken by the Reich Government, it was published in the press.

Q. Witness, I have to interrupt you. Those are not the measures that were aimed at the extermination of the Jews, and what I want to know from you is when you first found out, or gained knowledge of the fact, or rather, the measures as they are contained in the judgment of the International Military Tribunal.

A. The first official news I received of an extermination program of the Reich Government I had through Himmler's speech in Poznan early in October 1943. That was the first time when I officially heard about the extermination program.

Q. And you reacted to this speech in the manner in which you already described yesterday, or the day before yesterday, to this Tribunal?

A. Yes.

Q. That is, by speaking with Himmler?

A. Yes. At least I tried to speak with Himmler about it.

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Q. As Prosecution Exhibit 507, the prosecution introduced a report concerning the demolition of the Warsaw ghetto which you wrote yourself on 29 October 1943 to the Reich Leader SS Himmler. This document, NO-2503, on page 114 of the English docu-

* "Persecution of the Jews" appearing in the judgment of the International Military Tribunal is reproduced in this document. See Trial of Major War Criminals, vol. I, *op. cit. supra*, pp. 247-258.

ment book and on page 159 of the German document book 20. I ask you, Witness, what were the reasons that compelled the Reich Leader SS Himmler to destroy the Warsaw ghetto, and who was it that carried out the measures in connection with that, in detail? When you answer this question I want you to take a look at Documents NO-2505, Prosecution Exhibit 509, and NO-2504, Prosecution Exhibit 510 in document book 20, and also the teletype of Kammler to Himmler, which was introduced as NO-2515, Prosecution Exhibit 511. They are on pages 123, 124, and 127 of the English document book 20.

A. The reasons for this destruction were given by Himmler himself in his order to the Higher SS Police Leader East. (NO-2494, Prosecution Exhibit 501.) By that, apparently, they wanted to eliminate certain hiding places of the resistance movement. I already said before that the technical execution took place, or was carried out by Amtsgruppe C, whereupon it was reported to Himmler through me.

However, all this was not carried out to the end because the Higher SS and Police Leader Krakow transferred it to the central construction administration in Warsaw for reasons which are unknown to me. That is how this came to an end.

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Q. Now I shall proceed to Document NO-2368. It is in document book 21, on page 25 of the English and on page 24 of the German document book. This is an affidavit of a man by the name of Friedrich Entress which was introduced by the prosecution as Prosecution Exhibit 516. * * *

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Q. With reference to paragraph 19 of this affidavit I ask you, Witness, did you, during your visit in Auschwitz in 1943, talk, or did you have the construction of the crematoriums explained to you in the office of the construction group there?

A. During my visit there I went to the construction office—that is correct—and I wanted to know about the general construction situation on the basis of a map of the camp on which the crematorium and the gas chambers had been drawn. The reason of this explanation, however, was to find out what billets were ready, which ones were being constructed, and which ones were being planned. Such an explanation usually always preceded one of my visits to one of these construction projects there.

JUDGE PHILLIPS: This affidavit says that you came to Auschwitz for an inspection and at the time you were there the plan for the enlargement of the crematoriums which was in the process of construction was explained to you? What do you say about that?

DEFENDANT POHL: The plan of the crematoriums was not ex-

plained to me. It says in this exhibit, that Sturmbannfuehrer Bischoff explained to me the plans for the expansion of the camp. The plans were on the wall and the crematoriums to be constructed or under construction could be seen from there. And—

Q. Did you see that?

A. Yes. I saw that.

Q. Did you discuss it with him?

A. No. We did not discuss the construction in detail. We just discussed the main items that were on the map, and I only demanded an explanation as to what construction projects were finished, which ones were being built and which ones were being planned, and then we went through the construction project, and we took a look at it.

Q. Just confine yourself to the crematorium. Didn't you ask him why it was being enlarged, for what reason it was being enlarged?

A. No. I never discussed that.

Q. Why didn't you? Why didn't you?

A. Well, I had no reason to do so because I did not order the construction of the crematorium.

Q. You knew that the transports were becoming bigger and people were coming in and took more space than the crematorium to kill them. You knew that, didn't you?

A. I did not know that the transports were becoming larger. I had no idea whatsoever as to how many transports were arriving there because I had nothing to do with the transports that were coming to Auschwitz for extermination. That matter, as I later on found out, was a special order of Himmler to Hoess. We were to establish an Amt W IV, and I have no knowledge about the number of the transports, or about the dates of their arrival. I have no information whatsoever nor did I receive any report to that effect. Therefore, I could not recognize the reason for extending such an installation and I didn't head it myself. An extension of the crematory—

Q. I didn't ask you for a speech. I asked you a question. You answer that. Just answer my question. Did you go and visit the crematory and gas chamber while you were there on an inspection tour?

A. No.

Q. Why didn't you if you were inspecting the camp?

A. I had nothing to do with the crematory and the gas chamber.

Q. The camp was under your supervision, wasn't it?

A. Yes.

Q. Then why didn't you see everything that was in the camp? It was under your supervision.

A. The extermination of the Jews and the gas chamber was not part of my field of tasks, therefore, I had no reason whatsoever to examine these installations. I saw them while walking but I did not look at them closer because I had nothing to do with them. I went to Auschwitz in order to see the billets and the quarters of the inmates because in Auschwitz there was an enormous amount of work to be done. That's why we didn't have enough barracks. That is what I saw.

JUDGE MUSMANNO: When you saw these gas chambers you, of course, realized the purpose to which they were put to?

DEFENDANT POHL: Yes. That was clear to me, your Honor.

Q. You knew that people were going to be killed in these gas chambers?

A. Yes. I knew that.

PRESIDING JUDGE TOMS: And you knew they weren't large enough to accommodate the number of people to be killed?

DEFENDANT POHL: No, your Honor. I did not know that.

Q. Why did you think they were making them larger?

A. I did not know whether the gas chambers were being enlarged or whether they were rebuilt at the time because only now the basins—later on I found out that these two basins which had been in a different spot had been rebuilt—the entire installation had been rebuilt. Whether or not they were enlarged I could not tell.

Q. But you found out they were adequate to take care of the business that was expected?

A. I only heard that this extermination installation was built. I didn't know it was to be extended.

Q. Well, wasn't it explained to you that in addition to more billets that they needed additional crematoriums?

A. No.

Q. You say you saw them walking by. Who did you see walking by?

THE INTERPRETER: He saw them while walking by, your Honor.

PRESIDING JUDGE TOMS: Did you see any of the inmates on their way to the crematorium?

DEFENDANT POHL: No, I didn't.

Q. Who built the crematoriums in the first place?

A. The crematoriums were built by the construction department in Auschwitz.

Q. Well, was that Amtsgruppe C?

A. Yes, your Honor.

Q. And that was one of your offices, wasn't it?

A. Yes. That's correct.

Q. Well, you know when one of your departments was building these crematoriums?

A. No. The plans for the construction—that is construction projects as a whole were not directed to Amtsgruppe C individually. The channel to Amtsgruppe C went through the Construction Management, Central Construction Management, Inspectorates to Berlin. The competency for the construction had been transferred to the Inspectorate.

Q. All right, it was Amtsgruppe C II that built the crematorium.

A. I do not know of that, your Honor, but in Amtsgruppe C I never saw any plans for crematoriums nor did I ever discuss that matter with anyone.

Q. You never saw or heard anything? But tell me whether or not Amtsgruppe C II built the crematoriums.

A. I do not know that, your Honor. You mean construction? Well the Bauleitungen [construction managements] carried out the construction itself. Whether the plans were made in C II I do not know.

Q. Well, where else would they be carried out?

A. The plans could also originate with the construction department or the Inspectorate. I even assume that they originated with the Inspectorate.

Q. That's the same Inspectorate that was made part of your organization in March 1942?

A. No.

Q. "No." I know what you are going to testify.

A. No. The Construction Inspectorates had nothing to do with the Inspectorate of the Concentration Camps, your Honor. We are now speaking of the construction organizations. In other words the channels through Amtsgruppe C down to the construction department were the following: Amtsgruppe C, Construction Inspectorate, Central Construction Office [management] and Construction Office, and Amtsgruppe C, during the war, transferred its competency to the Construction Inspectorate because during the war only certain emergency constructions were being carried out. The Amtsgruppe C limited itself to the accounts of the yearly contingents for the entire construction of the Reich and also in repairing various buildings and other ministerial tasks. Therefore, I only heard once that the plans for the crematoriums of the extermination chambers were not to come from the SS construction units. I understand they came from Bouhler's agency but I do not know for sure.

Q. Well, answer this question please. Do you know who built the crematoriums at Auschwitz?

A. The crematoriums in Auschwitz were undoubtedly built by

the construction department in Auschwitz.

Q. Do you know who enlarged the crematoriums at Auschwitz?

A. Your honor, the planning or do you mean the construction?

Q. Both.

A. That must have gone through the construction department at Auschwitz. I know nothing further.

Q. Construction department of what?

A. Construction department Auschwitz was under the Central Construction Office of the Construction Inspectorate Poznan; the competent ministerial office was Amtsgruppe C.

Q. Sure. Well, it was done by some branch of the SS, was it not?

A. Yes. That's correct, your Honor.

PRESIDING JUDGE TOMS: I guess that's as near as we can get to it.

* * * * *

Q. You regret that you didn't have the power to leave two organizations that were actually doing the exterminating, the SS and the National Socialist Party?

A. Your Honor, when I heard of this for the first time, that the state government was engaged in a formal plan for the extermination of the Jews, at that time we were not in peace times, but we were at war. According to my fundamental attitude on these questions, in peacetime I would have resigned from my office. However, we were in a war, a war to life and to death in which my Fatherland was engaged. In view of the terrible suffering which was taking place in Germany, in view of the hundreds and thousands of lives, of human phosphor torches, I was confronted by the question, under my oath as soldier. I had to choose between the German people and the Jewish people. Your Honor, I decided in favor of the German people, and I remained in my position during the war. I now state that I did not want to be more of a coward than the hundreds and thousands of young soldiers who sacrificed their lives before the guns of the enemies. If that was a crime, to remain on my post as a soldier during the war, then, your Honor, I am prepared to voluntarily put my head down before the seat of this high Tribunal.

Q. You see, you miss the point. I am not talking about Germany at war at all, and I haven't mentioned any date after 1939. I am talking about 1926, 1934, 1938. You were not a soldier defending your homeland then, were you?

A. I was not, your Honor. In 1936 and 1938, at that time nobody in Germany spoke of the fact that the Jewish people in Germany were to be exterminated. Individual excesses also, if they were carried out by party agencies with the help of the SS and the SA, you cannot describe them as measures for the extermination of

the Jewish people. That is impossible. I have told you that such excesses took place in all countries, before and afterwards. You only have to go to the East now where the Jews before 1938 and after 1938 were killed and maltreated in exactly the same manner. In this case it can only be a question of when the plan of the Reich Government to exterminate the Jewish people was put into effect, and as can be seen by the documents, I believe that it appeared for the first time in 1940 or 1941. At that time we were engaged in a war, and the men who had this on their conscience did not have a bad idea in mind, because in peacetime, I do not think that they would have succeeded in carrying out such an insane policy.

PRESIDING JUDGE TOMS: Are there any other questions of this witness?

JUDGE MUSMANNO: I have two questions to put to the witness.

The first question rises out of the statement made during the direct examination, and the other just occurred to me now because of the answers he has made to the presiding judge. You said that you had to choose between the Germans and the Jews. Were the Jews making war on Germany that you had to choose between the two?

DEFENDANT POHL: Yes.

Q. The Jews had declared war on Germany, they were in the field against Germany, and therefore you had to exterminate them?

A. From the moment on when I had to decide for or against the extermination of the Jews, at that time I had to choose for or against the Jewish people or Germany in the war. I could not express my attitude with regard to the extermination of the Jews individually then through the fact that in the war I said, "I do not like this sort of thing. Germany is engaged in war. I have been a soldier for 30 years, but I am going to leave my post." In that case I would have decided in favor of the Jewish people. At least that is my concept.

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CROSS-EXAMINATION

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MR. ROBBINS: I would like to turn now to some of the documents in book 3. If you have that before you, will you turn to page 9 of the German book, the Document 1919-PS, Prosecution Exhibit 49. This is the speech by Himmler at Poznan, which you have referred to several times. Were you at Poznan when this speech was delivered?

DEFENDANT POHL: Yes.

Q. You were in the audience of Gruppenfuehrer who attended the meeting?

A. Yes.

Q. And you heard Himmler say, "What happens to a Russian, to a Czech, does not interest me in the slightest. What nations can offer in the way of good blood of our type, we will take * * *. Whether 10,000 Russian females fall down from exhaustion does not interest me."

A. I have listened to that speech, yes.

Q. You also heard Himmler say in referring to you in that same speech "We have huge armament works in the concentration camps. This is the sphere of activity of our friend, SS Gruppenfuehrer Pohl. Every month we put in many millions of hours of work for armament." You heard that, did you not?

A. Yes.

Q. And then with reference to the clearing out of the Jews, did you hear Himmler say, "I want to talk to you about clearing out of the Jews, the extermination of the Jewish race. It's one of those things that's easy to talk about—the Jewish race is being exterminated," and so forth.

A. He personally did not discuss that with me. I only heard that in his speech.

Q. You heard it in his speech?

A. The speech at Poznan, yes.

JUDGE PHILLIPS: What is the date of this speech, please?

MR. ROBBINS: This is 4 October 1943, your Honor. This is Prosecution Exhibit 49, in book 3.

And then with reference to the clearing out of the Jews, did you hear Himmler say this about you? "We have taken from them what wealth they had. I have issued a strict order, which SS Obergruppenfuehrer Pohl has carried out, that this wealth should, as a matter of course, be handed over to the Reich without reserve." You heard that, did you not?

DEFENDANT POHL: Yes.

Q. Now, I ask you to turn to the last part of this document, which is Himmler's speech at Krakow [Kharkov] in April 1943.

JUDGE MUSMANN: Mr. Robbins, before you proceed to the next speech, I just want to ask a question or two about the Poznan speech. Where was this delivered, this speech? Was it in a hall, in an auditorium, or out in the open?

DEFENDANT POHL: This speech was delivered in a hotel where this conference took place. It was in a big hall; a hotel hall.

Q. About how many were present?

A. I estimate there were 100 to 150 persons present.

Q. And how were they invited to the conference? Were they ordered there?

A. They were ordered officially to attend this conference.

Q. Thank you.

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EXTRACTS FROM TESTIMONY OF DEFENDANT SOMMER *

EXAMINATION

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PRESIDING JUDGE TOMS: Do you mean to tell us that you believe today that there was no national plan for the extermination of the Jews which started at the top level of the Reich?

DEFENDANT SOMMER: No. I don't want to say that, your Honor. I would have come back to that.

Q. Well, you already came to it. You suggested that this was all the work of a few political malefactors, villains, in the concentration camps and that it wasn't a national policy. Do you mean that?

A. Your Honor, what I mean to say is that this was not a national policy, to exterminate any concentration camps as a matter of principle. That is to say, that the concentration camps were not merely an institution to exterminate every undesirable enemy. One has to see these things in their various phases.

Q. Of course, no one would believe for a minute that it was the policy to exterminate all concentration camp inmates. They were too valuable. They were the means by which Germany expected to win the war but do you recognize today a national policy which started out from Himmler, if not from Hitler, to exterminate all the Jews in Germany?

A. There can be no doubt about it, your Honor.

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DIRECT EXAMINATION

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DR. BELZER (counsel for defendant Sommer): Did office D II receive reports about the examinations in Auschwitz through the camp commandant or the labor allocation leader of concentration camp Auschwitz?

DEFENDANT SOMMER: No.

Q. Was it possible to see from the surveys submitted to D II anything about these exterminations—from the death rate reports, for instance?

A. No. As the affidavit [*of Kurt Pany, Doc. NI-310, Pros. Ex. 301*] shows, inmates about to be gassed were not first received into the concentration camp but were taken immediately from

* Complete testimony is recorded in mimeographed transcript, 30 June, 1, 2 July 1947; pp. 3653-3878.

their railway wagons to the gas chambers. Therefore they could not appear in the lists as new arrivals or as departed inmates. Hoess also said in his affidavit that he never did keep figures about the gassings.

Q. Witness, in your testimony up to now you have said that you had no official or unofficial observations concerning the examination of certain groups of inmates such as Jews, gypsies, and so forth. I would like to ask you whether you limit that testimony to persons who appeared on the lists of concentration camps?

A. Yes.

Q. When you commented on the affidavit of Entress—Just now you said that you as an expert in inmate labor allocation, were not in a position to hear anything about the extermination, of special groups of persons because they had not been received first into the various camps. My question is: Did you hear anything about that in any way at any time?

A. Yes. Division Chief Gluecks told me.

Q. Please describe to the Court in the greatest detail on what occasion this happened and what it was that Gluecks told you about.

A. The former commandant of Auschwitz camp in December 1943 or January 1944 was chief of office D I, the central office of Amtsgruppe D. In April 1944, approximately, it became known that some hundreds of thousands of Jews would arrive from Hungary soon, and we were told that these were Jews who belonged to construction details behind the front line in Hungary and that they represented a danger to the army. These workers were to be used for work as quickly as possible and, as it was explained to me at the time, Hoess was sent to Auschwitz because he had connections with the Reich railways and other departments, and it was only through him that it became possible for transportation to become available as quickly as possible in order to transport these workers to wherever they were to work.

One evening about the end of May or the beginning of June 1944, I was called in to see Gluecks. He told me roughly this: "I want you to swear under oath that you will not say one word about what I am about to tell you to anybody. Otherwise, you will lose your life. You know that Jews are about to come from Hungary. By Hitler's orders, some of them have to be killed. Hoess has gone to Auschwitz for that purpose. Every evening he sends me a teletype letter as top secret containing the figures of the Jews who have arrived and have been killed. I shall see to it that these teletype letters will be sent to you so that you can keep a register, because you work every evening late after hours."

When he told me this, I was appalled. I deliberated for a mo-

ment, and then I asked him not to give me that order because I was overworked to such an extent that I could not possibly take on any additional work. Gluecks was slightly taken aback at this and then told me, "All right, I'll pick out somebody else."

That is how I heard about the extermination of the Jews in Auschwitz.

Q. To clarify this, you therefore were not given the order that Gluecks meant you to have?

A. No.

Q. Why did Gluecks pick you out, of all people?

A. I described before that I used to work every evening until eight or nine o'clock. Everybody else went home at six or seven, whereas we were the only persons to work overtime. I had to assume that this was the reason why Gluecks wanted me to work on this measure so that these teletype letters, when they reached us, would immediately be locked up in a safe and would not be left lying about in the teletype office.

Q. The reason why you were to be given that assignment was, as you are bound to assume, not that the task which you were meant to do was connected in any way with the field of tasks of D II and your own matters?

A. No. In no sense of the word.

Q. And this work which Gluecks meant you to do, you, in order to prevent doing this, pretended to be overworked? Was that your real reason?

A. I could pretend to be overworked, and Gluecks had to believe me. Actually, it would not have been too much work if I had carried out this order, but I did not wish to be connected with these things, which is the reason I refused.

* * * * *

EXTRACTS FROM TESTIMONY OF DEFENSE WITNESS SS
GENERAL KARL WOLFF *

DIRECT EXAMINATION

* * * * *

DR. SEIDL (counsel for defendant Pohl): Within this trial the so-called "Action Reinhardt" has played a very important part. I now ask you when did you for the first time hear of this "Action Reinhardt." Did Himmler ever discuss this operation with you, or were you not informed by any men of his chief offices of this action?

WITNESS KARL WOLFF: That the "Action Reinhardt" ever

* Complete testimony is recorded in mimeographed transcript, 3-5 June 1947; pp. 2090-2206.

existed, and above all under the name of Reinhardt, I have only heard here in Nuernberg. Of the terrible exterminations of Jews, and other exterminations in the camps which was carried out at Lublin and Auschwitz I heard for the first time on 19 March 1945, when I came to Switzerland in order to handle the capitulation negotiations there at the time. At the time I was in Switzerland my Swiss friends gave me Switzerland newspapers, and showed me with horror of the first reports that bore atrocities in that form as carried out in the concentration camp of Lublin, which had been published in the papers. Himmler himself never discussed these things with me and in my opinion he never discussed them with any other Main Office chief or with any other person who was not directly needed as an active collaborator for the execution of this most terrible program of all times. We know the Fuehrer's order which states explicitly and which was issued long years before—that is, I believe, when the plans for the planned Western offensive in 1940 were lost. This order stated that nobody should obtain more knowledge of any important assignment and that he should not be informed of it earlier than was actually required by him to carry out this assignment.

* * * * *

JUDGE PHILLIPS: Taking it for granted that Himmler gave the order for the extermination of these people in the concentration camps, through what channels and through what executives would these orders ordinarily have been carried out?

WITNESS KARL WOLFF: I don't know if I can start from the point of a normal form, your Honor, as your Honor mentioned, because the order itself is so abnormal and so inhuman that I believe it is a false conclusion, but in order to answer the question of your Honor, I would like to point out that the Reich Leader SS would have discussed it with the chief of the Security Police normally, and the technical details of execution would have been agreed upon between them, and then this terrible secret would have been limited to a minimum, that is, the circle of persons participating in this terrible program.

Q. Wouldn't you assume that the Inspectorate of the Concentration Camps would know something about it?

A. It is very difficult to answer this question in an off-hand manner. If I am correctly informed, I know from newspapers which I have seen in the meantime that Himmler would have informed the commanders of the concentration camps, Hoess of Auschwitz, and Globocnik of Lublin, that he would have told them to come and see him, and he personally would have given them this assignment. He would have made the worst threats to them in case they did not keep this official secret.

Q. Well, if the WVHA had charge of the allocation of all the labor in the concentration camps, which you say is true, and the economic administration of the inmates; don't you think that if the evidence is true that over 3,000,000 people were exterminated, that that would make a difference so great that they would have to know something about it in order to properly allocate the labor?

A. Your Honor, please consider that I have the greatest interest in achieving a complete verification, not only in the interest of the noncriminal part of the SS, of our innocence, but also of our guilt. But I know—

Q. This Tribunal wants to find the truth, that is all. That is what we are trying to do right now, to find the truth about this.

A. Yes. I can only say that in my conviction and as far as my knowledge goes the Reich Leader SS probably—and I can only assume that, in order to give my conviction to the best of my knowledge and belief—the Reich Leader SS would not have discussed the details with the Inspectorate of the Concentration Camps. Whether and at what period of time the Inspectorate of the Concentration Camps in the course of the execution might have obtained knowledge of these problems, that of course, I cannot judge myself because at that period of time I was not there anymore, but was already in Italy.

* * * * *

PRESIDING JUDGE TOMS: Witness, when did you go to Italy?

WITNESS KARL WOLFF: On 9 September 1943, after I had been sick for 6 months before, and as I already stated during the Milch* trial, I was operated on at Hohenlychen, Karlsbad, Bad Gastein, and I was convalescing there.

Q. Were you a member of the circle of Himmler's friends?

A. Yes. Or to express it more clearly in cases where Himmler was prevented from attending, I personally participated in the monthly conferences of the industrial circle of friends of the Reich Leader and I repeatedly, or let us say often, attended these conferences as his representative, or representative deputy of the Reich Leader SS, and I attended the dinners.

Q. Well, never mind, that is going too far afield. Did you hear the speech of Himmler at Poznan?

A. No. I did not hear that speech.

Q. Did you hear the speech at Poznan in October 1943?

A. No. Because at that time I was already in Italy.

Q. Yes, and you didn't hear about it in Italy?

A. No. This speech was not distributed to the leaders who were at the front.

* Defendant in case of U.S. vs. Erhard Milch, vol. II.

Q. Well, did you ever hear about Russians and Poles, who were not Jews, being exterminated and killed, did you ever hear about that?

A. No. I have never heard anything about extermination. I know that in the cases of combatting partisans, and in cases of attempts at life harsh measures were taken and people would be shot, but what your Honor is probably referring to is systematic and planned extermination.

Q. Exactly, exactly. Did you ever hear about that?

A. No.

Q. This is the first time?

A. Please?

Q. This is the first you ever heard about it?

A. After the capitulation I was reproached with that, and I was asked about it, and that is when I heard it for the first time.

Q. Oh? Do you believe it happened?

A. That the extermination actually took place?

Q. Yes.

A. I have no proof of the fact. However, I fear that extermination was carried out on a large scale.

Q. You are inclined to believe it then; you don't think it is propaganda?

A. No. I regret to have to confirm to you that today I am of the opinion that exterminations were actually carried out without our knowledge.

Q. Have you any idea of the extent of the exterminations?

A. No. I have heard of figures from two to twenty millions according to the papers which brought the news. In my experience I have never found anyone, even my interrogators or judges who could give me an exact figure. However, I would be very grateful to your Honor if on this occasion you could give me the exact number.

PRESIDING JUDGE TOMS: There were so many that no one could count them. No one knows how many, but all of the evidence points to several million at least.

WITNESS KARL WOLFF: I am very grateful to your Honor for the information which you have just given me.

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TRANSLATION OF DOCUMENT FRANK 17
FRANK DEFENSE EXHIBIT 16

AFFIDAVIT OF SS STANDARTENFUEHRER KURT BECHER, 12 JUNE 1947,
ON HIS AND FRANK'S ATTITUDE TOWARD JEWS

AFFIDAVIT

I, Kurt Becher, at present witness' quarters, Nuernberg, have been warned that I render myself liable to punishment if I make a false affidavit. I declare upon oath that my statement is true and was made in order to be submitted as evidence before the Military Tribunal II, Palace of Justice, Nuernberg, Germany.

Concerning my person. I was born on 12 September 1909 in Hamburg. Before the war I worked there with a firm of grain and fodder merchants, as a "Prokurist." In August 1934, I joined a cavalry unit [Reitersturm] of the General SS; last rank held; SS Unterscharfuehrer. At the outbreak of the war, I was drafted from a police reinforcement unit to the Waffen SS, by emergency measures of the State. Last rank held in the Waffen SS, Standartenfuehrer in the Reserve. I was, therefore, although a member of the SS, not a member of an organization declared a criminal one, by the IMT, Nuernberg.

Concerning the subject. Approximately in the summer of 1942, as "Referent" [expert] for the Inspectorate "Riding and Driving" [Reit- und Fahrwesen] in the SS Operational Main Office, I was asked by my boss, then SS Standartenfuehrer Hermann Fegelein, to negotiate with the "Oppenheim" family, Cologne, with the purpose of transferring the ownership of the stud farm "Schlenderhan" to the Waffen SS. This commission was based on a decision of Hitler, who had decreed that the owners, the not "pure Aryan" family of "von Oppenheim," were not permitted to remain owners. Fegelein told me that Himmler intended to requisition the property or expropriate the owners. I would like to mention that the object in question was worth eight million. I strongly dissuaded Fegelein from expropriating the family, pointing out what the repercussions would be in German and international racing circles, quite apart from the moral side of such a step which would severely endanger his personal reputation. He subsequently managed to get Himmler's permission to enter into normal negotiations, with the carrying out of which I was then commissioned by him. Immediately after my first meetings with Dr. Pferdenges, a partner of the Oppenheim Bank, I got in touch with Frank, then Gruppenfuehrer, chief of a department in the Economic and Administrative Main Office, as he was competent for financial questions, and as he, too, had to conclude the deal in the name of

the Reich. From the beginning, I found that Frank shared my views concerning the carrying out of such a transaction on a generous basis only, and on the condition that the Oppenheim family would benefit by reliable and valuable countermeasures. From this time onward, I reported continually the progress of the negotiations to Gruppenfuehrer Frank and got his sanction and endorsement.

It was extremely difficult for me to negotiate as, already prior to me, an intimate friend of Hitler's, Christian Weber, had had dealings with them, using blackmail methods of the worst possible kind, not even in order to incorporate the stud farm Schlenderhan into the Reich, but only to enlarge his private property as cheaply as possible.

I reported to Frank that my fellow negotiator, Baron Waldemar von Oppenheim wanted, as a main condition, to obtain guarantees that nothing detrimental would happen to himself, his wife, his children, and the remainder of his family because they were not of pure Aryan descent. While Fegelein scoffed at me for my endeavors in this connection, Frank not only showed a complete understanding for these matters, but also supported and spoke for me in these very difficult but as far as the family Oppenheim was concerned most important questions. The contract was signed later by Frank for the Reich Waffen SS, in the Reich Chancellery in Berchtesgaden. Subsequently a dinner was given by Lammers,* chief of the Reich Chancellery. Frank, as representative of the Waffen SS, participated in this, as well as in a subsequent dinner for the purchasers, given by Baron Waldemar von Oppenheim, on the occasion of a visit to the stud farm situated in the grounds of castle Schlenderhan. At that time, I was on the eastern front, but learned that Baron von Oppenheim and SS Gruppenfuehrer Frank had, on the occasion of the last dinner, exchanged cordial toasts, which characterized Frank's attitude.

As far as I know, Frank also succeeded, by personal representations to the Ministry of Finance, in getting an exemption of tax for the purchase price which, according to my knowledge, benefited the family of von Oppenheim to the tune of over two million marks.

Contrary to the demands made by Fegelein and later by Himmler, and in spite of various other reproaches, Frank always stood by me when I carried out the conditions of the contract in a fair and decent manner and did, in addition, support me when I further assisted the Oppenheims. I very much doubt, whether, without Frank's support and protection I would have been suffi-

* Defendant in case of United States vs. Ernst von Weizsaecker, et al., vols. XII, XIII, and XIV.

ciently effective. The attitude, prevalent, apparently widely, to conclude contracts in a fair manner, but not, however, to fulfill them, pleading as an excuse that: "the partners were Jews," did not, as far as I could make out, apply to Obergruppenfuehrer Frank. On the contrary, he showed, as the example of the not "pure Aryan" family of Oppenheim shows, an absolutely upright and decent way of thinking and that, right under the eyes of the highest authorities. Since 1943, I had no further official dealings with Obergruppenfuehrer Frank, but kept up personal contact. On the occasion of several visits which I paid him in 1944, I often hinted, when I saw him in his police office and later in his army office, that I was engaged in transactions of a dangerous nature, that is dangerous for me, the purpose of which was the saving of Jews.

These transactions were as follows: Since the spring of 1944, I have worked with all the energy at my disposal, against the measures, intended and partly adopted by Hungarian and German authorities, against the Jews. I have worked in close connection with leading personalities of the Jewish agency and the Joint Distribution Committee of Jewish Affairs—mainly Dr. Rudolf Kastner¹—for the benefit of the Hungarian Jews. In particular, I was able to prevent further deportation from Hungary, and in autumn 1944 finally succeeded in getting Himmler to issue an order for the discontinuation of further liquidation of Jews. This has been proved by affidavits, on the part of Jews as well, and by my having been thoroughly interrogated by the American, Hungarian, and Russian authorities. The American magazine "This Month" which, in its June 1946 number deals with one of these operations, puts the number of persons thus saved as high as 200,000. I was under the impression that Frank approved my basic attitude with regard to the Jewish question, insofar as he could derive it from my hints, and that he would stand by me in case of persecution on the part of Kaltenbrunner,² Mueller, Eichmann and Fegelein. I had occasion to verify this in the case of both Kaltenbrunner and Fegelein. Not for reasons of friendship—our relationship did not exceed those ties of comradeship normally existing between an Obergruppenfuehrer and an Obersturmbannfuehrer known—but because of his upright attitude of mind of which I had proof, I was sure that, contrary to other high SS leaders, he would even make representations to Himmler in case

¹ Dr. Rezzo Kasztner (Rudolf Kastner), Head of the Hungarian Zionist Organization, and a witness in the case of United States vs. Ernst von Weizsaecker, et al., vols. XII, XIII, and XIV.

² Ernst Kaltenbrunner, head of the RSHA after the assassination of Heydrich, was a defendant before the International Military Tribunal. See Trial of Major War Criminals, *op. cit. supra*, vols. I-XLII.

the latter disavowed either myself or my work. This knowledge itself was definitely of a decisive moral support to me in my exposed situation which, in itself, was a contributory factor towards the continuation of my purpose: to help save the Jews. Each failure of my mission would have caused a severe reverse in Himmler's attitude toward the Jews which I had managed to influence favorably in 1944.

In my opinion, though I did not know his sphere of activity in detail, Frank belonged to that circle of SS men quite frequently to be found, who were willing, insofar as it was compatible with their authority, to pursue a decent policy and to support that policy with the force of their personality.
Nuernberg, 12 June 1947

[Signed] KURT BECHER

EXTRACT FROM TESTIMONY OF DEFENSE WITNESS
HELMUT BICKEL *

* * * * *

CROSS-EXAMINATION

MR. MCHANEY: Mr. Bickel, what is your present occupation?

WITNESS BICKEL: I am an independent merchant.

Q. Will you give me the answer again, please?

PRESIDING JUDGE TOMS: Independent merchant.

WITNESS BICKEL: I am an independent merchant.

MR. MCHANEY: Now, in discussing the transport of invalids out of Neuengamme you mentioned the initials SAW [Sonder-Abteilung-Wehrmacht] and I didn't quite understand what they meant. Will you tell us again, the initials S-A-W?

WITNESS BICKEL: S-A-W is a special department of the Wehrmacht. Those were the inmates who were taken by the Wehrmacht out of the ranks of the Wehrmacht, and they were sent to the concentration camps. These inmates were incarcerated in the concentration camps by order of the agencies of the Wehrmacht, and the RSHA was only included in that [channel]. However, it was not done on the sole initiative of the RSHA, but the Wehrmacht played an active part in this.

Q. Now, Mr. Bickel, isn't it true in connection with those invalid transports which were sent to the asylum where they were killed, isn't it true that the basis for selecting those inmates was their incapacity for work, the fact that they were sick, exhausted, debilitated.

A. The selection was carried out in this case exclusively by the camp leader Luetgemeyer who was hanged a short time ago in the

* Complete testimony is recorded in mimeographed transcript, 31 July, 4 August 1947, pp. 5881-5512.

British Zone. Luetgemeyer was the leader and he carried out the selection according to his temper and sympathy. He was not interested in working conditions. First of all he liquidated the inmates who had come to his attention more frequently, or because they had committed disciplinary violations; and specifically, he dealt with those who had tried to escape on one or two occasions. Even then in particular he selected older Jews, who from his point of view were not considered as being productive for concentration camp life; and as I have already stated before, especially valuable human lives were exterminated here.

Q. Isn't it true, Mr. Bickel, that the camp doctor also participated to some extent in the selection of inmates for these transports?

A. Yes, in general. However, in this individual case the physician was not there. In general this task was handled exclusively by the camp medical officer. May I describe the attitude of medical officers toward the state of affair? Let me give you an example. The camp physician at Neuengamme, at the end of 1942 I believe, was reproached and he told that at Neuengamme there were too few people capable of working. That was in the middle of 1942 that this statement from Berlin came. The reproach connected with this was left open with regard to any conclusions which might be drawn from it. The commander in the camp and the physician now had two possibilities. They could take positive action or negative action. The positive action would have been to improve food, accommodations, and quarters of the inmates there; and the negative action would have been to exterminate the persons, including those who were working. The camp physician approved of the latter method because it was easier. For example, the time arrived when lethal injections were given. The camp medical officer did not give orders to his subordinates, but he hinted to them that they had received a reproach that there were too many inmates incapable of working. These subordinate, SS noncommissioned officers, now on their own initiative, exterminated inmates who were in the dispensary sick and exhausted without regard to the labor conditions. Here we had two SS non-commissioned officers by the names of Bahr and Boening. Both of them have been hanged. First of all, they would personally select the inmates, and then they would inject phenol into the hearts of these inmates. Then when there was a shortage of phenol, they would inject gasoline into the hearts of the inmates. The man Bahr developed a fantastic technique. Whenever he killed the inmates by these injections, he even succeeded in killing inmates just by injecting water into the inmates; and he would inject this water into the back of the neck. Boening worked

on a different method. He worked from the back, injecting the water into the heart of the inmates. These things were certainly kept secret, and I only heard about them when I was in the hospital, and I had contacts with the inmates who worked in the dispensary. All these things only came to the knowledge of the important SS leaders later on.

* * * * *

TRANSLATION OF DOCUMENT SCHEIDE 20
SCHEIDE DEFENSE EXHIBIT 13a

EXTRACT FROM TESTIMONY BEFORE THE IMT, OF OHLENDORF, 3
JANUARY 1946,* ON ORIGIN OF GAS VANS USED FOR EXTER-
MINATION

*EXCERPT FROM THE RECORD OF PROCEEDINGS AT THE
INTERNATIONAL MILITARY TRIBUNAL NUERNBERG,
3 JANUARY 1946, FORENOON*

* * * * *

Colonel Amen. Were all victims, including the men, women, and children, executed in the same manner?

Witness Ohlendorf. Until the spring of 1942, yes. Then an order came from Himmler that in the future the women and children should only be killed in gas vans.

Q. How had the women and children been killed previously?

A. Precisely as the men were—by shooting.

Q. What, if anything was done about burying the victims after they had been executed?

A. At first the Kommandos buried the victims completely so the signs of the execution could not be seen, and then the population financed the burial later—the local population.

Q. Referring to the gas vans which you said you received in the spring of 1942, what order did you receive with respect to the use of these vans?

A. These gas vans should be used in the future for the killing of women and children.

Q. Will you explain to the Tribunal the construction of these vans and their appearance?

A. The actual purpose of these vans could not be recognized from outside. They were disguised as trailers. They were so constructed that when the motor was running the gas was conducted to the van and brought about the death of the occupants in 10 to 15 minutes.

* Complete testimony is recorded in Trial of Major War Criminals, *op. cit. supra*, vol. IV, pp. 311-354.

Q. Explain in detail just how one of these vans was used for an execution.

A. The vans were loaded with the victims and driven to the place of burial, which usually was the same as that used for the mass executions. The time needed for the transportation was long enough for their death.

Q. How were the victims induced to enter the vans?

A. They were told that they were to be transported to another locality.

Q. How was the gas turned on?

A. I am not familiar with the technical details.

Q. How long did it take to kill the victims ordinarily?

A. About 10 to 15 minutes and the victims suffered no pain.

Q. How many persons could be killed simultaneously in one such van?

A. The vans were various sizes, anywhere from 15 to 25 persons.

Q. Did you receive reports from those persons operating these vans from time to time?

A. I didn't understand the question.

Q. Did you receive reports from those who were working on the vans?

A. I received the report that the Einsatzkommandos did not like to use the vans.

Q. Why not?

A. Because the burial of the occupants was unpleasant to the members of the Einsatzkommandos.

Q. Will you tell the Tribunal who furnished these vans to the Einsatz groups?

A. The gas vans did not belong to the motor pool of the Einsatz groups but came from a special Kommando. This Kommando was led by the man who made these vans. The vans were given to the Einsatz groups by the RSHA.

* * * * *

Certified as true and correct copy.

Nuernberg, 19 June 1947

KARL HOFFMANN
Attorney at law

TRANSLATION OF DOCUMENT SCHEIDE 21
SCHEIDE DEFENSE EXHIBIT 15

EXTRACTS FROM TESTIMONY BEFORE THE IMT, OF SS HAUPTSTURM-
FUEHRER WISLICENY, 3 JANUARY 1946,* ON "FINAL SOLUTION
OF THE JEWISH PROBLEM" AND TRANSPORTATION OF GREEK
JEWS TO AUSCHWITZ

*EXCERPTS FROM THE RECORD OF PROCEEDINGS OF
THE INTERNATIONAL MILITARY TRIBUNAL NUERN-
BERG, OF 3 JANUARY 1946, FORENOON*

The President: [Lord Justice Sir Geoffrey Lawrence]

What is your name?

A. Dieter Wisliceny.

Q. Will you repeat this oath? "I swear by God, the Almighty
and Omniscient that I will speak the pure truth and will withhold
and add nothing."

(Witness repeated oath in German.)

By Colonel Brookhart:

Q. How old are you?

A. I am thirty-four years old.

Q. Where were you born?

A. I was born at Regulofken in East Prussia.

Q. Were you a member of the NSDAP?

A. Yes. I was a member of the NSDAP.

Q. Since what year?

A. I entered the NSDAP first in 1931, was then struck off the
list and entered finally in 1933.

Q. Were you a member of the SS?

A. Yes. I entered the SS in 1934.

Q. Were you a member of the Gestapo?

A. In 1934, I entered the SD.

Q. What rank did you achieve?

A. In 1940 I was promoted to Hauptsturmfuehrer.

Q. Do you know Adolf Eichmann?

A. Yes. I know Eichmann since 1934. In 1934, at about the
same time, we joined the SD together. Until 1937 we were in the
same department.

Q. Did you know Eichmann personally?

A. We knew each other very well. We went to the same school
and I know his family very well.

Q. What was his position?

A. Eichmann was in the RSHA, chief of section IV, Gestapo.

* Complete testimony is recorded in Trial of Major War Criminals, *op. cit. supra*, vol. IV, pp.
355-371.

Q. Section IV or a subsection, and if so which subsection?

A. He led section IV A-4. This section had two spheres; the church and the other Jewish problem.

Q. You have before you a diagram showing the position of subsection IV A-4b from the RSHA?

A. Yes.

Q. Did you prepare this diagram?

A. Yes. I made the diagram myself.

Q. Does it correctly portray the organizational set-up showing the sections dealing with Jewish problems?

A. Yes. It concerns the section at the beginning of the year 1944, and its personnel.

Q. Referring to this chart and the list of leading personnel as shown in the lower section of the paper, were you personally acquainted with each of the individuals named therein?

A. Yes. I knew all of them myself.

Q. What was the particular mission of IV A-4b of the RSHA?

A. This section, IV A-4b, was concerned with the Jewish question. Eichmann had special powers from Mueller, the chief of Amt IV, and from the chief of the Security Police. He was responsible for the so-called solution of the Jewish question in all of Germany and all occupied countries.

Q. Were there distinct periods of activity affecting the Jews?

A. Yes.

Q. Describe to the Tribunal the approximate periods and the different types of activity.

A. Yes. Until the year 1940 the general policies were in Germany and in the occupied countries to settle this through planned immigration. The second phase, the concentration of Jews in Poland and the rest of the occupied territories in the East; to have them concentrated in ghettos. This period was approximately until the beginning of 1942. And the third period, the final solution of this problem, the planned destruction of the Jewish race. This period covered the period until October 1944, until Hitler gave the order to stop this period of destruction or annihilation.

* * * * *

In Salonika Jews were concentrated in certain quarters or certain parts of the city. In Salonika there were about 60,000 Jews of Spanish descent. Beginning March, after this concentration had taken place, there was a wire from Eichmann to Brunner directing him for the immediate transportation of Jews of Salonika and Macedonia to transport them to Auschwitz. With this order Brunner and I went to the military administration. No exceptions were to be made and the measures were carried through as planned. Brunner himself led this action in Salonika. The trans-

ports necessary were requisitioned from the Wehrmacht commandant, and Brunner, all he had to do was mention how many cars he needed and what time he needed them.

Q. Were any of the Jewish workers retained at the request of Dr. Merkel or the military administration?

A. Yes, for railroad construction work and military administration. After this construction was completed, the Jews were returned. Just like the rest, they were transported to Auschwitz and these works were carried out in the frame of the Organization Todt.

Q. What was the number of Jewish workers retained for the Organization Todt?

A. Three to four thousand.

Q. Was there any illness among the Jews that were concentrated for transport?

A. On the whole in this concentration camp there were no special cases of illness but in some of the quarters of the city which were inhabited by Jews, a certain kind of typhus and other infectious contagious diseases, especially tuberculosis of the lungs.

Q. What, if any, communication did you have with Eichmann concerning this typhus?

A. I told Eichmann by telephone after the wire regarding the transportation of all Jews, and told him about these cases of typhus. He did not respond to this and ordered the immediate beginning of this transportation of the Jews.

Q. Altogether, how many Jews were collected and shipped from Greece?

A. There were more than 50,000 Jews. I believe that 54,000 Jews were transported from Salonika and Macedonia.

Q. What was the basis for your figure?

A. I, myself, saw a comprehensive report of Brunner's to Eichmann, which was drawn up after these Jews had been transported. Brunner left Salonika at the end of May 1943. From the beginning of April until May, I was not at Salonika and Brunner carried out this action alone.

Q. How many transports were used for shipping Jews from Salonika?

A. From 20 to 25 cars, transport trains.

Q. And how many were shipped in each transport?

A. There were at least 2,000, and in some cases two and half thousand in each.

Q. What type of railway equipment was used for those shipments?

A. Closed freight cars. But the evacuees received food to last

for about 10 days. There was chiefly bread, olives, and other dried foods, also water, and a few other hygienic or sanitary means.

Q. Did you furnish this railway transportation?

A. Transports were furnished by the Wehrmacht. That means the cars and the locomotives. The foodstuffs were furnished by the military administration.

* * * * *

Certified as true and correct copy.
Nuernberg, 19 June 1947

[Signed] KARL HOFFMANN

F. Acquisition and Disposal of Property and Valuables of "Evacuated" Jews—"Action Reinhardt"

I. INTRODUCTION

The indictment alleged that "The defendants systematically confiscated the personal property of living and deceased inmates of concentration camps" (par. 19). The materials included in this section deal principally with the "Action Reinhardt", an "action" alleged to have involved the transport from Poland to Germany of property of victims of the extermination program, the delivery of some of this property to such Reich agencies as the Reich Bank and the Reich Ministry of Economy, and the use of funds derived from the confiscation of this property for financing various industrial activities of the WVHA. The principal defense argument was that the defendants did not know that the property had been obtained by criminal means. In the selections from the record below, evidence of the prosecution on pages 695 to 731 is followed by evidence of the defense on pages 732 to 763. Further defense material on this point is reproduced in the section on "Defense of mere organizational or administrative connection," page 786. Defense argument on this point is reproduced below in the closing statement on behalf of the defendant Pohl, page 865.

2. SELECTIONS FROM THE EVIDENCE

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-724	472.....	Letter by Frank to SS Garrison Administration and concentration camp Auschwitz, 26 September 1942, concerning utilization of property of Jews.	695
NO-1005	390.....	Letter from Bobermin to Hohberg, 29 January 1943, requesting additional auditors, and negative answer from Hohberg, 9 February 1943.	698
NO-1257	479.....	Report by Pohl to Himmler's office, 6 February 1943, with enclosed statement showing delivery of 825 cars of textiles from Jewish resettlement; letter from Himmler to Pohl, 15 January 1943, concerning utilization of Jewish property.	699
NO-060	474.....	Report by Globocnik, undated, concerning valuables from "Action Reinhardt," delivered to WVHA for transfer to the Reich Bank and the Reich Ministry of Economy.	704
NO-061	475.....	Report by SS Sturmbannfuehrer Wipperfurth, 27 February 1943, concerning value of money, precious metals, other valuables, and textiles of Jews, delivered up to 3 February 1943.	706
NO-2003	480.....	Letter by Frank to Himmler, 13 May 1943, concerning distribution of watches and other property among the services.	709
NO-1040	577.....	Letter by Hohberg to office A II of WVHA, 3 June 1943, concerning Pohl's and Frank's orders with regard to a credit of 30 million RM from the Reinhardt funds to German Economic Enterprises.	712
NO-2754	539.....	Letter from Rudolf Brandt to Pohl, 3 December 1943, concerning distribution of watches.	713
NO-3034	485.....	Letter from Himmler to Pohl, 22 September 1943, ordering Pohl to take over the settlement of the account "Reinhardt 1" as of 1 January 1944.	714

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO-064	486.....	Letter from Globocnik to Himmler, 5 January 1944, submitting report on "Action Reinhardt."	715
NO-057	487.....	Report by Globocnik on "Action Reinhardt", undated, (enclosure to his letter to Himmler, 5 January 1944, Document NO-064).	716
NO-726	496.....	Circular from defendant Vogt, 15 March 1944, requesting reports on execution of "Action Reinhardt."	720
NO-2756	541.....	Letter by Pohl to Himmler, 29 July 1944, suggesting distribution of 16 gold precision wrist watches to commanders of technical units.	721
NO-725	481.....	Circular of Pohl, 9 December 1943, concerning the handling and auditing of the "Action."	722
NO-554	448a.....	Letter from DWB to SS Savings Bank Association, 7 June 1943, announcing Frank's authorization to repay through the bank, a loan from the Red Cross; letter from DWB to Frank, same date, requesting loan from Reinhardt fund to repay this loan, and a direct loan of the Red Cross.	723
NO-059	488.....	Report by Globocnik, undated, on administrative development of "Action Reinhardt."	725
NO-062	489.....	Detailed list of money, precious metals, jewels, other valuables, and textiles, signed by Globocnik and Wipperfurth (undated).	728

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Pohl 8.....	Pohl Ex. 7.....	Extracts from Goering's decree, 12 June 1940, concerning Main Trustee Office East, and administration of Polish public and private property.	732
Pohl 7.....	Pohl Ex. 6.....	Extracts from Goering's decree, 17 September 1940, concerning treatment of Polish property.	733
Pohl 9.....	Pohl Ex. 8.....	Circular letter of Foreign Office to various Ministries, 31 July 1942, concerning treatment of Jewish property; and approving answer from Reich Ministry of Justice, 18 August 1942.	734

Doc. No.	Def. Ex. No.	Description of Document	Page
Pohl 10.....	Pohl Ex. 9.....	Thirteenth decree, 1 July 1943, implementing the Reich Citizenship Law (Nuernberg Race Law) of 1935.	736
Mummenthey 40.	Mummenthey Ex. 41.....	Affidavit of Emil Puhl, vice president of the German Reich Bank, concerning credits granted to DEST and delivery of confiscated valuables to the Reich Bank.	737
Scheide 17.....	Scheide Ex. 14..	Order of Waffen SS, published 15 June 1943, amending regulations concerning transportation service of the SS and police.	739
Hohberg 71.....	Hohberg Ex. 68..	Affidavit of Emil Puhl concerning Pohl's and Sommer's visit to the Reich Bank vaults in 1942.	741

Testimony

Extract from testimony of defendant Pohl.....	742
Extracts from testimony of defendant Georg Loerner.....	744
Extracts from testimony of defendant August Frank.....	752

TRANSLATION OF DOCUMENT NO-724
PROSECUTION EXHIBIT 472

LETTER BY FRANK TO SS GARRISON ADMINISTRATION AND CONCENTRATION CAMP AUSCHWITZ, 26 SEPTEMBER 1942, CONCERNING UTILIZATION OF PROPERTY OF JEWS

Copy

Top Secret
6 copies—4th copy

Chief A/Pr./B.
Journ. No. 050/42 secr.
VS 96/42

26 September 1942

To the Chief of the SS Garrison Administration Lublin
To the Chief of Administration Concentration Camp Auschwitz
Subject: Utilization of property on the occasion of settlement and evacuation of Jews.

Without taking into account the over all regulations which are expected to be issued during October, pertaining to the utilization of mobile and immobile property of the evacuated Jews, the following procedure has to be followed with regard to the property carried by them—property, which will in all orders in the future

be called goods originating from thefts, receiving of stolen goods, and hoarded goods:

1. *a.* Cash money in German Reich Bank notes have to be paid into the account: Economic and Administrative Main Office 158/1488 with the Reich Bank in Berlin-Schoeneberg.

b. Foreign exchange (coined or uncoined), rare metals, jewelry, precious and semi-precious stones, pearls, gold from teeth and scrap gold have to be delivered to the SS Economic and Administrative Main Office. The latter is responsible for the immediate delivery to the German Reich Bank.

c. Watches and clocks of all kinds, alarm clocks, fountain pens, mechanical pencils, hand and electrical razors, pocketknives, scissors, flashlights, wallets, and purses are to be repaired by the Economic and Administrative Main Office in special repair shops, cleaned, and evaluated; and have to be delivered quickly to front line troops.

Delivery to the troops is on a cash basis through the post exchanges. Three-fourth price grades are to be set and it has to be made sure that each officer and man cannot buy more than *one* watch.

Exempt from sale are the gold watches, the utilization of which rests with me. The proceeds go to the Reich.

d. Men's underwear and men's clothing including footwear has to be sorted and valued. After covering the needs of the concentration camp inmates and in exceptions for the troops they are to be handed over to the Volksdeutsche Mittelstelle. The proceeds go to the Reich in all cases.

e. Women's clothing and women's underwear, including footwear; children's clothing and children's underwear, including footwear; have to be handed over to the Volksdeutsche Mittelstelle against payment. Underwear of pure silk is to be handed over to the Reich Ministry of Economics according to orders by the SS Economic and Administrative Main Office. This order refers also to underwear, under letter.

f. Featherbeds, quilts, woolen blankets, cloth for suits, shawls, umbrellas, walking sticks, thermos flasks, ear flaps, baby carriages, combs, handbags, leather belts, shopping baskets, tobacco pipes, sun glasses, mirrors, table knives, forks and spoons, knapsacks, and suitcases made from leather or artificial material are to be delivered to the Volksdeutsche Mittelstelle. The question of payment will be decided later.

The needs in quilts, woolen blankets, thermos flasks, ear flaps, combs, table knives, forks and spoons, and knapsacks can be furnished from Lublin and Auschwitz from these stocks against payment from budget funds.

g. Linen, such as bed sheets, bed linen, pillows, towels, wiping cloths, and tablecloths are to be handed over to the Volksdeutsche Mittelstelle against payment.

Bed sheets, bed linen, towels, wiping cloths, and table cloths can be furnished for the needs of troops from these stocks against payment from budget funds.

h. Spectacles and eyeglasses of every kind are to be handed in to the medical office for utilization. (Spectacles with golden frames have to be handed in without glasses together with the rare metals). A settlement of accounts for the spectacles and eyeglasses need not take place with regard to their low value and their limited use.

i. Valuable furs of all kinds, raw and cured, are to be delivered to the SS WVHA.

Ordinary furs (lamb, hare, and rabbit skins) are to be reported to the SS WVHA, Amt B II, and are to be delivered to the clothing plant of the Waffen SS, Ravensbrueck near Fuerstenberg (Mecklenburg).

k. All items mentioned under the letters d, e, and f, which have only one-fifth or two-fifths of the full value, or are useless altogether will be delivered via the SS WVHA to the Reich Ministry for Economics for utilization.

For the decision on items which are not mentioned under the letters b-i, application for a decision as to their utilization should be made to the chief of the WVHA.

2. The SS WVHA will establish all prices under observation of the legally controlled prices. This estimation, however, can be made later on. Petty evaluations which only waste time and personnel may be eliminated.

Average prices for single items have to be established in general. For instance, one pair of used men's trousers 3.00 RM, one woolen blanket 6.00 RM, etc.

For the delivery of useless items to the Reich Ministry for Economics, average Kilo prices will have to be established.

It has to be strictly observed, that the Jewish Star is removed from all garments and outer garments which are to be delivered. Furthermore, items which are to be delivered have to be searched for hidden and sewed-in values, this should be carried out with the greatest possible care.

ACTING FOR

[Signed] FRANK
SS Brigadefuehrer
and Brigadier General of the
Waffen SS

TRANSLATION OF DOCUMENT NO-1005
PROSECUTION EXHIBIT 390

LETTER FROM BOBERMIN TO HOHBERG, 29 JANUARY 1943, REQUEST-
ING ADDITIONAL AUDITORS, AND NEGATIVE ANSWER FROM
HOHBERG, 9 FEBRUARY 1943

The Chief of Office W II
AC/Zy

Poznan, 29 January 1943
Wilhelm-Gustloff-Str. 5
Telephone: 4375
[Stamp partly illegible]

To Dr. Hohberg,

German Economic Enterprises Ltd. Receipt: 1 February 1943
Berlin-Lichterfeld-West, Distribution:
Unter den Eichen 126-135. St.W. [initial] Ho

St.W.
St.W.
St.W.
St.W.
To files

Dear Dr. Hohberg,

The chief of the Main Office has announced the liquidation of the auditing section and the drafting of the auditors for various tasks, in a circular dated 20th inst. As you know I had already reduced my staff to a minimum. As a result of the conscription of five of my men who are fit for active service, I am faced with great difficulties in carrying on my work in an organized way. In the course of a telephone conversation with SS Hauptsturmfuehrer Dr. Volk, I asked him yesterday to apply to you for three of your auditors. Although I am aware that in requesting a quarter of your former staff, I am perhaps rather pretentious compared with the other W officers, but I beg you to take into consideration that not only do I have to supervise the greatest number of plants, but also that these are spread out over an extraordinarily large area, so that I can only survey them by a repeated revision of the accounts of the different groups of plants. On top of this, I had to engage my accountants during the war and consequently I do not always have very highly qualified workers at my disposal, and they require constant supervision and advice. Finally, I ask you to take into consideration that the Ostdeutsche Baustoffwerke G.m.b.H. [Eastern German Building Material Works Ltd.] is now under reconstruction and that new ledgers must be opened with special care.

I am sure that you will appreciate my request, and that you will help me.

Heil Hitler!

Yours

[Signed] BOBERMIN

SS Sturmbannfuehrer and Chief of Office

Staff W WL/J Berlin-Lichterfelde, 9 February 1943

To the Chief of Office W II,
SS Sturmbannfuehrer Dr. Bobermin

Poznan

Wilhelm-Gustloff-Str. 5

Subject: Assignment of auditors

Reference: Letter of 29 January 1943 AC/Zy

Sturmbannfuehrer,

I am extremely sorry that my reply has to be in the negative. All available auditors who have not already been conscripted into the army or sent to other places of duty, are earmarked for a special task to be carried out at Lublin under the direction of SS Brigadefuehrer Globochnik and SS Obersturmfuehrer Dr. Horn.

[Signed] Ho (Dr. Hohberg)

TRANSLATION OF DOCUMENT NO-1257
PROSECUTION EXHIBIT 479

REPORT BY POHL TO HIMMLER'S OFFICE, 6 FEBRUARY 1943, WITH ENCLOSED STATEMENT SHOWING DELIVERY OF 825 CARS OF TEXTILES FROM JEWISH RESETTLEMENT; LETTER FROM HIMMLER TO POHL, 15 JANUARY 1943, CONCERNING UTILIZATION OF JEWISH PROPERTY

[Stamp] Secret

COPY

[Stamp]

Personal Staff of the Reich Leader SS
Administration of Central Files
File No. Secret 181/6

B/Ch 186

6 February 1943

Report on the realization of textile-salvage from the Jewish resettlement up to the present date.

The enclosed statement gives an account of the quantity of old garments from the Jewish resettlement that have been sent from the camps of Auschwitz and Lublin up to the present date. In this connection special consideration must be given to the fact that the delivery of rags is very high. As a result, the amount

of usable old garments, especially men's clothing, is naturally diminished. It has therefore not been possible to satisfy the demand for men's clothing to its full.

The transportation by rail proved to be especially difficult. Through the continually recurring transportation stoppages, the dispatch was held up, resulting in temporary accumulations in the individual camps.

The transportation barrier to the Ukraine has been especially noticeable since December 1942, and prevented the delivery of old clothing intended for the racial Germans there. The whole delivery to the racial Germans in the Ukraine was, therefore, taken by the office for Germanization to Lodz and there placed in a large store. As soon as the transportation situation is relieved, the inter-office for Germanization will carry out the distribution.

Up till now the supply of the great amount of necessary cars has been carried out in close cooperation with and through the Reich Ministry for Economics. Also, in the future, the Reich Ministry for Economics will endeavor to obtain cars for the dispatch of old materials from the Government General through the Reich Ministry for Transportation, making reference to the bad situation in respect of textile raw materials.

[Signed] POHL
SS Obergruppenfuehrer and
Lt. General of the Waffen SS
[Signed] KERSTEN
SS Hauptsturmfuehrer

Certified true copy.

[Stamp]

Copy Secret [Stamp]
Personal Staff of the Reich Leader SS Administration of
Central Files

File No. Secret 181/6

Statement on the quantities of old textile-materials delivered from the camps of Lublin and Auschwitz by order of the SS Economic and Administrative Main Office.

1. *Reich Ministry of Economics*

Men's old clothing without
underwear97,000 sets
Women's old clothing without
underwear76,000 sets
Women's silk underwear.....89,000 sets

Total 34 cars
Rags400 cars..2,700,000 kg

Bed-feathers	..130 cars..	270,000 kg
Women's hair	1 car ..	3,000 kg
Scrap material	5 cars..	19,000 kg

Total	2,992,000 kg
-------	--------------

Total

536 cars

570 cars

2. *Office for Germanization [VoMi]*

Men's clothing:

overcoats	.....	99,000	
jackets	.....	57,000	
vests	.....	27,000	
pants	.....	62,000	
drawers	.....	38,000	
shirts	.....	132,000	
pullovers	.....	9,000	
scarves	.....	2,000	
pajamas	.....	6,000	
collars	.....	10,000	
gloves	.....	2,000	pairs
socks	.....	10,000	pairs
shoes	.....	31,000	pairs

Women's clothing:

coats	.....	155,000	pieces
dresses	.....	119,000	pieces
jackets	.....	26,000	pieces
shirts	.....	30,000	pieces
chemises	.....	125,000	pieces
blouses	.....	30,000	pieces
pullovers	.....	60,000	pieces
drawers	.....	49,000	pieces
panties	.....	60,000	pieces
pajamas	.....	27,000	pieces
aprons	.....	36,000	pieces
brassieres	.....	25,000	pieces
underwear	.....	22,000	pieces
kerchiefs	.....	85,000	pieces
shoes	.....	111,000	pairs

Children's clothing:

overcoats	.....	15,000
boys' jackets	.....	11,000
boys' pants	.....	3,000
shirts	.....	3,000
scarves	.....	4,000

pullovers	1,000
drawers	1,000
girls' dresses	9,000
girls' chemises	5,000
aprons	2,000
drawers	5,000
stockings	10,000 pairs
shoes	22,000 pairs

Linen, etc.:

bed covers	37,000 pieces
bed sheets	46,000 pieces
pillow slips	75,000 pieces
tea towels	27,000 pieces
handkerchiefs	135,000 pieces
hand towels	100,000 pieces
table cloths	11,000 pieces
napkins	8,000 pieces
woolen shawls	6,000 pieces
ties	
rubber shoes	
and boots	24,000 pairs
caps	9,000 pieces

Total

211 cars

3. *Reich Youth Leadership—Rural Service*

Men's old clothing.....	4,000 sets
Men's overcoats	4,000
Men's shoes	3,000 pairs
Women's old clothing	4,000 sets
Women's overcoats	4,000
Women's underwear	3,000 sets
Women's pullovers	20,000
Women's aprons	5,000
Scarves, various sorts	6,000
Women's shoes	3,000 pairs

4. *The enterprise "Heinrich"*

Men's old clothing	2,700 sets
--------------------------	------------

5. *I. G. Farbenindustrie, Auschwitz*

Men's old clothing	4,000 sets
--------------------------	------------

6. *Organization "Todt"—Riga*

Men's old clothing	1,500 sets
--------------------------	------------

7. *The Fuehrer's Inspector General for Motor Transport*

Men's old clothing	1,000 sets
Men's underwear	1,000 sets
Men's shoes	1,000 sets
Men's overcoats	1,000

8. *Concentration camps*

Men's jackets	28,000	
Men's pants	25,000	
Men's vests	7,000	
Men's shirts	44,000	
Men's drawers	34,000	
Men's pullovers	1,000	
Men's overcoats	6,000	
Women's overcoats	25,000	
Men's shoes	100,000	pairs
	Total	44 cars
<hr/>		
Grand Total		825 cars

Certified true copy.

[Signed] KERSTEN
SS Hauptsturmfuehrer

[Stamp]

Personal Staff of the Reich Leader SS Administration of Central
Files

File No. Secret 181/5

The Reich Leader SS
Journal No. I 110/43 Ads/G
RF/V

Field Command Post, 15 January 1943
Secret

1. SS Obergruppenfuehrer Krueger
2. SS Obergruppenfuehrer Pohl

[Handwritten] x Jewish warehouses

On my visit to Warsaw I also inspected the warehouses containing the material and the goods taken over from the Jews, that is, at the emigration of the Jews.

I again request SS Obergruppenfuehrer Pohl to arrange a written agreement with the Minister of Economics regarding each individual category; whether it is a question of watch glasses, of which hundreds of thousands—perhaps even millions—are lying there, and which for practical purposes could be distributed to the German watchmakers; or whether it is a question of turning lathes, which we need for our workshops, and which we can either have legally given to us by the Minister for Economics or buy from him; or whether it is a question of sewing machines to which the same thing applies; or common furs, or superior ladies' furs. I believe, on the whole, we cannot be too exact.

It struck me furthermore that no proper administrative chiefs had been appointed. SS Obergruppenfuehrer Pohl has made the

Higher SS and Police Leaders his commissioners and subordinated to them the SS and Police Leaders. I, personally, do not believe that the individual Higher SS and Police Leader, and SS and Police Leader are capable of dealing with these matters alone.

I wish all reports and deliveries to the Office for Germanization to be signed by the delegated commander as well as by a delegated administrative chief.

In Warsaw an administrative chief from the cavalry brigade, who was very pleasant and who made an excellent impression, was assisting in setting things in order. He was, however, in no way legally appointed, but SS Oberfuehrer von Sammern had very reasonably called on his assistance.

I request SS Obergruppenfuehrer Pohl to clear up and arrange these matters to the last detail, as the strictest accuracy now will spare us much vexation later.

Heil Hitler!

yours

[Signed] H. HIMMLER

To SS Obergruppenfuehrer Wolff for information.

Certified.

[Signature illegible]

TRANSLATION OF DOCUMENT NO-060
PROSECUTION EXHIBIT 474

REPORT BY GLOBOCNIK, UNDATED, CONCERNING VALUABLES
FROM "ACTION REINHARDT" DELIVERED TO WVHA FOR TRANS-
FER TO THE REICH BANK AND THE REICH MINISTRY OF ECONOMY

[Stamp]

Personal Staff Reich Leader SS
Files Administration
File No. Secret 115
[initialed by Himmler]

Valuables Turned In from the "Operation Reinhardt"

Valuables from the "Operation Reinhardt" have been handed in at the SS WVHA Berlin for transmission to the Reich Bank or to the Reich Ministry of Economy as follows:

a. RM, total value.....	RM	53,013,133.51
b. Foreign currency, in notes, from all main countries of the earth (particularly the half million dollars are noteworthy), total value	RM	1,452,904.65
c. Foreign currency in coined gold, total value	RM	843,802.75

d. Precious metals (about 1,800 kg. gold and about 10,000 kg. silver in ingots), total value	RM	5,353,943.00
e. Other valuables such as jewels, watches, glasses, etc., in particular, the number of watches, about 16,000 watches in working condition and about 51,000 watches in need of repair, is noteworthy; they have been placed at the disposal of the troops	RM	26,089,800.00
f. About 1,000 boxcars of textiles, total value	RM	13,294,400.00
		<hr/>
Total	RM	100,047,983.91

About 1,000 boxcars of textiles are still in stock, and about 50 percent of above-mentioned other valuables, which still must be counted and appraised. It should be stressed that the valuations given above have been established on the basis of official exchange rates and prices; commercial values are, however, much higher, for instance when selling precious stones or metals abroad, as the flight into fixed values is greater there than in our country. Moreover, sales abroad bring us foreign currency.

If these prices have been used here for evaluation purposes, then this was done in order to be able to give a survey of the delivered valuables, in general, this valuation is not so decisive.

The value of the receipts lies mainly in the fact that such large quantities of raw material, which are so urgently required, could be had and that on the basis of the seized valuables foreign currency can be secured, thus permitting Reich offices to buy more raw material.

[Signed] GLOBOCNIK
 SS Gruppenfuehrer and
 Major General of the Police

1 detailed list attached.*

* Document NO-061, Prosecution Exhibit 475, pp. 699-702.

TRANSLATION OF DOCUMENT NO-061
PROSECUTION EXHIBIT 475

REPORT BY SS STURMBANNFUEHRER WIPPERN, 27 FEBRUARY 1943,
CONCERNING VALUE OF MONEY, PRECIOUS METALS, OTHER
VALUABLES, AND TEXTILES OF JEWS, DELIVERED UP TO 3 FEBRU-
ARY 1943

Valuation of Jewish belongings delivered up to 3 February 1943

[Stamp]

Personal Staff Reich Leader SS

Files Administration

File No. Secret 115

1. Cash		RM	15,931,722.01
Delivery SS Econ. Krakow.....		RM	31,500,000.00
SS WVHA Berlin (R.B.).....		RM	5,581,411.50
		RM	53,013,133.51

2. *Foreign currency, notes*

[Rate of
Exchange]

USA Dollar.....	505,046.00.....	2.50.....	RM	1,262,615.00
Palestinian Pounds.....	1,069/00/00.....	9.80.....	RM	9,941.70
Pengoe	16,435.00.....	.60.....	RM	9,861.00
Rubles	294,070.00.....	.10.....	RM	29,407.00
English Pounds.....	3,822/00/00.....	9.30.....	RM	35,544.60
Canadian Dollar.....	3,380.75.....	2.50.....	RM	9,601.87
Pesetas	131.00.....	2.40.....	RM	314.40
Czech Kr.....	789,630.00.....	.10.....	RM	78,963.00
French Francs.....	22,767.50.....	.05.....	RM	1,138.37
Brasil. Frs. [sic].....	8.00.....	.09.....	RM	— .72
South African Pounds...	28/10/00.....	4.40.....	RM	125.40
Turkish Pounds.....	5/50/00.....	1.90.....	RM	10.45
Dutch Guilders.....	1,720.00.....	1.33.....	RM	2,287.60
Swiss Francs.....	7,530.00.....	5.80.....	RM	4,367.40
Lire	883.00.....	.13.....	RM	114.79
Leva	100.00.....	.01.....	RM	1.00
Australian Pounds.....	15/10/00.....	2.50.....	RM	38.75
Lei	13,486.00.....	.02.....	RM	269.72
Egyptian Pounds.....	4/10/00.....	4.40.....	RM	19.80
Belga	4,203.00.....	.40.....	RM	1,681.20
Lats	10.00.....	.10.....	RM	1.00
Argentina Pesos.....	90.00.....	1.00.....	RM	90.00
Paraguayan Pesos.....	10.00.....	.60.....	RM	6.00
Swedish Kr.....	455.00.....	.60.....	RM	273.00
Norwegian Kr.....	165.00.....	.60.....	RM	99.00
Dinars	30.00.....	.05.....	RM	1.50
Karbowanets	1,555.00.....	.10.....	RM	155.50
Slov. Kronen.....	59,608.75.....	.10.....	RM	5,960.88
Litas	140.00.....	.10.....	RM	14.00
			RM	1,452,904.65
Total			RM	1,452,904.65

3. Foreign currency in minted gold		[Rate of Exchange]	
USA Dollar.....	116,425.00	4.20	RM 488,985.00
Rubles	91,362.00	2.15	RM 196,428.30
English Pounds.....	3,822/00/00	20.40	RM 77,969.00
Austrian Kronen.....	30,940.00	.85	RM 26,299.00
Austr. Shillings.....	1,975.00		RM 1,185.00
Ducats	2,366.00	10.00	RM 23,660.00
Finnish Mark.....	20.00	1.00	RM 20.00
Reichsmark	12,730.00	1.00	RM 12,730.00
Zloty	1,080.00	.50	RM 540.00
Danish Kronen.....	230.00	.52	RM 119.60
Czech Ducats.....	2.00	10.00	RM 20.00
Portuguese Reis.....	15,000.00 (150 Ese)	1.00	RM 150.00
Pesetas	25.00	1.50	RM 37.50
Fr. Frs.....	8,005.00	1.62	RM 12,968.10
South African Pounds....	2/00/00	20.40	RM 40.80
Turkish Pounds.....	47/00/00	3.50	RM 164.50
Dutch Guilders.....	315.00	17.00 (for 10 guild)	535.50
Swiss Frs.....	490.00	16.50 (for 20 Frs.)	404.25
Lire	1,210.00	.50	RM 605.00
Australian Pounds.....	6/10/00	20.40	RM 172.60
Lei	1,140.00	.50	RM 570.00
Belga	140.00	.50	RM 70.00
Swedish Kronen.....	20.00	11.20 (for 10 Kr.)	22.40
Norwegian Kronen.....	35.00	11.20 (for 10 Kr.)	39.20
Dinars	30.00	.50	RM 15.00
Cuban Pesos.....	10.00	4.20	RM 42.00
Alb. Frs.....	20.00	.50	RM 10.00
Total			RM 843,802.75

4. Precious metals

1,775.46 kg gold bullion	at RM 2,784	RM	4,942,870.00
9,639.34 kg silver bullion	at RM 40	RM	385,573.00
5.10 kg broken-up platinum	at RM 5,000	RM	25,500.00
Total		RM	5,353,943.00

5. Other valuables

5 pieces gold automatic pencils	at RM 30.00	RM	150.00
17 pieces gold fountain pens	at RM 70.00	RM	1,190.00
4 pieces ladies' platinum watches	at RM 300.00	RM	1,200.00
2,894 pieces gold gentlemen's pocket watches	at RM 500.00	RM	1,427,000.00
579 pieces gold gentlemen's wrist watches	at RM 300.00	RM	173,400.00
7,313 pieces gold ladies' wrist watches	at RM 250.00	RM	1,828,250.00
19 pieces platinum watch cases with brilliants and diamonds	at RM 1,000.00	RM	19,000.00

280	pieces bracelets with brilliants and diamonds	at RM 3,500.00	RM	980,000.00
6,245	pieces gentlemen's wrist watches	at RM 10.00	RM	62,450.00
13,455	pieces gentlemen's pocket watches	at RM 20.00	RM	269,100.00
1	pieces gentlemen's pocket watches gold with brilliants	at RM 600.00	RM	600.00
179	pieces ladies' gold watches with brilliants and diamonds	at RM 600.00	RM	107,400.00
7	pieces ladies' gold ring watches	at RM 150.00	RM	1,050.00
4	pieces ladies' lapel watches with pearls	at RM 200.00	RM	800.00
394	pieces ladies' lapel watches with brilliants	at RM 600.00	RM	236,400.00
228	pieces ladies' watches, platinum and brilliants	at RM 1,200.00	RM	273,600.00
293	pieces ladies' watches, gold	at RM 250.00	RM	73,250.00
22,324	pieces spectacles	at RM 3.00	RM	66,972.00
3	pairs cuff links with brilliants	at RM 150.00	RM	450.00
11,675	pieces gold rings with brilliants and diamonds	at RM 1,500.00	RM	11,675,000.00
7,200	pieces ladies' wrist watches	at RM 10.00	RM	72,000.00
40	pieces gold brooches	at RM 350.00	RM	14,000.00
1,399	pairs gold earrings with brill.	at RM 250.00	RM	349,750.00
169	pieces pins with brilliants and diamonds	at RM 100.00	RM	16,900.00
1,974	pieces gold brooches with brilliants and diamonds	at RM 2,000.00	RM	3,948,000.00
27	pieces gold bracelets with brilliants and diamonds	at RM 250.00	RM	6,750.00
49	kg pearls		RM	4,000,000.00
7,000	pieces fountain pens	at RM 10.00	RM	70,000.00
130	pieces large single brilliants	at RM 1,000.00	RM	130,000.00
2	pieces necklace with brilliants and diamonds	at RM 1,500.00	RM	3,000.00
1	pieces gold cigarette case	at RM 400.00	RM	400.00
1	pieces mother-of-pearl box	at RM	RM	20.00
3	pieces gold compacts	at RM 50.00	RM	150.00
2	pieces binoculars, mother-of-pearl	at RM 50.00	RM	100.00
1.44	kg corals		RM	150.00
51,370	pieces watches, to be repaired	at RM 5.00	RM	256,850.00
1,000	pieces automatic pencils	at RM 3.00	RM	3,000.00
350	pieces razors	at RM 2.50	RM	875.00
800	pieces pocket knives	at RM 1.00	RM	800.00
3,240	pieces purses	at RM 1.50	RM	4,860.00

1,315	pieces pocketbooks	at RM	2.50 RM	3,287.50
1,500	pieces scissors	at RM	0.50 RM	750.00
230	pieces flashlights	at RM	0.50 RM	115.00
2,554	pieces alarm clocks, to be re-paired	at RM	3.00 RM	7,662.00
160	pieces alarm clocks, in working condition	at RM	6.00 RM	960.00
477	pieces sun glasses	at RM	0.50 RM	238.50
41	pieces silver cigarette cases	at RM	30.00 RM	1,230.00
230	pieces clinical thermometers	at RM	3.00 RM	690.00
Total			RM	26,089,800.00

6. *Textiles*

462	boxcars rags	at RM	700.00 RM	323,400.00
253	boxcars feathers for bedding	at RM	10,000.00 RM	2,510,000.00
317	boxcars clothes and linen	at RM	33,000.00 RM	10,461,000.00
Total			RM	13,294,400.00

Summary

1.	Delivered cash and cash on hand.....	RM	53,013,133.51
2.	Foreign currency, notes.....	RM	1,452,904.65
3.	Foreign currency, minted gold.....	RM	843,802.75
4.	Precious metals.....	RM	5,353,943.00
5.	Other items	RM	26,089,800.00
6.	Textiles	RM	13,294,400.00
Total		RM	100,047,983.91

Lublin, 27 February 1943

[Signed] WIPPERN
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT NO-2003
PROSECUTION EXHIBIT 480

LETTER BY FRANK TO HIMMLER, 13 MAY 1943, CONCERNING DISTRIBUTION OF WATCHES AND OTHER PROPERTY AMONG THE SERVICES

SS Economic Administrative Main Office
Phone: local 765261
long distance 765101

[Stamp]
Top Military Secret

[Typed]
Top Military Secret!

Dictating sign:

Chief A/Fr/B, positively to be given in the answer.

[Handwritten] 0109/43 top military secret

Berlin, 13 May 1943

Lichterfelde-West

Unter den Eichen 126-135

To the Reich Leader SS

Berlin.

Subject: Utilization of Jewish concealed and stolen goods.

[Himmler's initials] H. H.

[Handwritten note]

Given out by the Chief on 27 December.

Letter remained that long with him.

To be filed. [initials] Bg

Reich Leader!

1. Delivered up to 30 April 1943—

- 94,000 Men's watches.
- 33,000 Ladies' watches.
- 25,000 Fountain pens.
- 14,000 Mechanical pencils.
- 3,500 Pocket books.
- 4,000 Wallets.
- 130,000 Razor blades.
- 7,500 Safety razors and straight-edge razors.
- 400 Hair-cutting machines.
- 14,000 Scissors of all kinds.

2. Repaired and ready for shipping thereof are—

- 7,000 Men's watches (beginning 1 May 1943, an additional 2,500 watches will be ready for shipping every month; therefore about 20,000 more this year).
- 8,000 Fountain pens.
- 100,000 Razor blades.
- 5,000 Razors.
- 400 Hair-cutting machines.
- 14,000 Scissors.

Of these repaired quantities are already delivered:

- 100,000 Razor blades, to be sold at post exchanges.
- 4,000 Razors, to be sold at post exchanges.
- 1,000 New or as good as new razors to SS hospitals for SS men from the front lines.

250 Straight razors for the barber shops of the concentration camps.

400 Hair-cutting machines.

The scissors were distributed as follows: Tailor scissors, paper scissors are sold to the German Equipment Works Ltd. for technical purposes; needlework, nail, and household scissors are delivered to the Lebensborn, registered association without payment; surgical scissors are delivered to the camp physicians of the concentration camps; and barber scissors are received by the barber shops of the troops with the concentration camps.

3. I suggest to distribute the repaired *men's watches* as follows:

(a) Each combat division receives immediately—500 items, beginning 1 October 1943, "Leibstandarte Adolf Hitler," once more 500 items, division "Das Reich," "Totenkopf Division," (once received already 500 watches each).

(b) The submarine service receives immediately 3,000 items beginning 1 October 1943, once more 3,000 items.

(c) Concentration camps receive for squads on outside duty, guard-commanders etc., according to the decision of the commandant, 200 items. This is a total of about 25,000 watches; remainder 2,000 items.

Fountain pens—Each combat division receives 300 items; the submarine service receives 2,000 items; remainder 1,500 items.

I request decision what has to be done with the 33,000 *ladies' watches*.

4. Also on hand from Jewish concealed and stolen goods are—

(a) Some hundreds numismatically very valuable old gold and silver coins (partly from the period prior to the Christian Era) of high collector's value.

(b) Four big boxes with valuable stamp collections, among them complete collections of an individual value of 40,000 marks and more.

(c) About 5,000 watches of most expensive Swiss make, in *pure gold and platinum cases*, partly fitted with precious stones (golden watches of inferior make or of clumsy or ostentatious style were already handed to the Reich Bank for melting down).

Ad. 4. I request decision whether—

(1) The collector's coins may be turned over to the monetary museum of the Reich Bank,

(2) What has to be done with the stamp collection,

(3) Whether the watches may be handed to the Reich Bank for sale abroad or whether those watches or part of them (of the most valuable and most beautiful items) are to be retained for special use.

A number of fountain pens and mechanical pencils of pure

gold are also on hand. Are they to be delivered to the Reich Bank for sale abroad or for melting down?

Heil Hitler!

ACTING FOR

[Signed] FRANK

SS Gruppenfuehrer and Major General of the Waffen SS
[Stamp]

Personal Staff RF SS

In: 14 May 1943 [Handwritten] without

Journal No. 1612/43

To: RF

TRANSLATION OF DOCUMENT NO-1040
PROSECUTION EXHIBIT 577

LETTER BY HOHBERG TO OFFICE A II OF WVHA, 3 JUNE 1943, CONCERNING POHL'S AND FRANK'S ORDERS WITH REGARD TO A CREDIT OF THIRTY MILLION RM FROM THE REINHARDT FUNDS TO GERMAN ECONOMIC ENTERPRISES

Staff W—WL/Kue.

Berlin, 3 June 1943

To the Chief of Office A II

to be passed on to SS Hauptsturmfuehrer Mellmer, in this building

Confidential

Subject: Credit from the Reinhardt funds for the
German Economic Enterprises.

After consulting SS Obergruppenfuehrer Pohl SS Gruppenfuehrer Frank has approved the granting of credit by the Reinhardt funds to the German Economic Enterprises, Ltd., in the amount of RM 30,000,000. The rate of interest to be paid according to previous agreement amounts to 3 percent. A written loan agreement is to be concluded between the Reich on the one side and the German Economic Enterprises on the other. It is requested that the agreement be presented. The term of the loan has not yet been agreed upon.

Gruppenfuehrer Frank has ordered, that the credit is to be claimed in shares, and not immediately in the full amount. Staff W (SS Obersturmfuehrer Wenner or Dr. Hohberg) is to be in constant touch with Hauptsturmfuehrer Mellmer concerning the possibility of payment.

[Signed] Ho (Dr. Hohberg)
Chief of Staff W

TRANSLATION OF DOCUMENT NO-2754
PROSECUTION EXHIBIT 539

LETTER FROM RUDOLF BRANDT TO POHL, 3 DECEMBER 1943,
CONCERNING DISTRIBUTION OF WATCHES

[Stamp]

Personal Staff Reich Leader SS
Archives
File No. 332/10

The Reich Leader SS Personal Staff
Diary No. 38/383/43
Bra/H.

Field Command Post, 3 December 1943

To SS Obergruppenfuehrer Pohl
Chief of SS Economic and Administrative Main Office
Berlin

Reference: Your letter of 6 November 1943 Ch. Po/Ha.-13
May 1943

Dear Obergruppenfuehrer!

The Reich Leader SS has agreed that you, according to your proposition, distribute pocket watches, wrist watches, and fountain pens among the individual division. He merely requests that the police division should not receive 700 pocket watches, but only 500. Those 200 watches are to be distributed, 100 watches each, among the divisions, "The Reich," and "Death Head."

I have reported to the Reich Leader SS immediately because I thought that would be better that you suggested to put the watches and fountain pens in his name at the disposal of the divisions for the yuletide celebration.

I am also in a position, after a lengthy period, to answer your inquiry of 13 May 1943. The original letter could not be found any more. SS Gruppenfuehrer Frank had sent a copy over to me on 2 September 1943. The Reich Leader SS is agreeable to the distribution scheme set up at the time. Of the ladies' watches about 15,000 shall be given on yuletide to the racial German resettlers now coming from Russia, in accordance with SS Gruppenfuehrer Lorenz.

Furthermore, the Reich Leader SS is requesting that the coins be delivered to the coin museum of the Reich Bank. Likewise, the watches with the most precious Swiss works in pure gold and platinum cases, etc., and also pure golden fountain pens and propelling pencils have to be put at the disposal of the Reich Bank for sale abroad. The Reich Leader SS is of the opinion that

also perhaps the stamp collections might be traded for foreign exchange.

Heil Hitler!
[Initials] R B [Rudolf Brandt]
SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO-3034
PROSECUTION EXHIBIT 485

LETTER FROM HIMMLER TO POHL, 22 SEPTEMBER 1943, ORDERING
POHL TO TAKE OVER THE SETTLEMENT OF THE ACCOUNT "REINHARDT 1" AS OF 1 JANUARY 1944

The Reich Leader SS Field Command Post, 22 September 1943
RF/Mae. 10/38/43 g.

[Stamp]
Personal Staff Reich Leader SS
Document Archives
File No. Secret: 190/15

[Stamp] Secret

1. To the Chief of the Economic and Administrative Main Office, SS Obergruppenfuehrer Pohl,
 2. To SS Gruppenfuehrer Globocnik
- The transfer of SS Gruppenfuehrer Globocnik necessitates an adjustment for the settlement of the account "Reinhardt 1".

I order herewith that SS Gruppenfuehrer Globocnik is to take over the settlement of the account "Reinhardt 1" up to 31 December 1943, after which date he is to hand it over to SS Obergruppenfuehrer Pohl or the latter's deputy, whose name will yet have to be submitted to me.

On the whole, an effort should be made to balance the account "Reinhardt 1" until then, and to use and transfer the results, so that, after 1 January 1944, only the newly accrued values will have to be accounted for.

[Signed] H. HIMMLER

3. To the Chief of the Reich Security Main Office SS Obergruppenfuehrer Dr. Kaltenbrunner
4. To the Higher SS and Police Leader East, SS Obergruppenfuehrer Krueger

Passed on for information.

By order

[Initial] B[randt]

TRANSLATION OF DOCUMENT NO-064
PROSECUTION EXHIBIT 486

LETTER FROM GLOBOCNIK TO HIMMLER, 5 JANUARY 1944,
SUBMITTING REPORT ON "ACTION REINHARDT"

Higher SS and Police Leader
Operational Zone of the Adriatic Coast
Gl./Go.—Tgb. Nr. 1/44 gRs PK

Trieste, 5 January 1944

To the Reich Leader SS and Reich Minister of the Interior
Heinrich Himmler,
Berlin

- [Illegible pencil notes]
[Stamp] TOP SECRET

Reich Leader!

I beg to enclose the report on the economic settlement of the "Operation Reinhardt," as you ordered me in your letter of 22 September 1943, to conclude it and hand it over by 31 December 1943.

The recognition which I received for the "Operation Reinhardt" obliges me, too, to give an account of the economic side, in order to show you that in this respect also the work is as it should be. Although SS Obergruppenfuehrer Pohl has not had time so far to effect the transfer, nevertheless, I hope that the facts outlined in my report will implement my discharge.

A conclusion in accordance with regulations and my discharge are necessary insofar as my activities had been within the SS sphere and must therefore be concluded in a regular manner before the competent Reich offices. "Operation Reinhardt" was too dangerous for that.

In addition I would have the unpleasant reputation of not keeping the necessary order in economic matters and in that case I must prove beyond a doubt that this is not so.

The whole settlement contains two parts—

1. Economic part of "Operation Reinhardt," subdivided into—
 - a. Account and delivery of valuables obtained.
 - b. Account of valuables achieved through work.
2. The economic groups' settlement [Siedlerwirtschaftsgemeinschaft] for the economic management of which I was also responsible and which is now transferred to civilian management.

With regard to the complete final accounts of "Operation Reinhardt" I must add that all vouchers should be destroyed as soon as possible, as has been done in the case of all other documents pertaining to this operation.

"SWG" [economic groups' settlement] is not only a question of financial settlement but also a question of transfer, so that the settlers may retain possession of these accommodations.

It is only after I have been duly discharged of my obligation in these two cases, that I consider my functions terminated.

I beg you, Reich Leader, to fix a date for the final settlement, based on my enclosures, to take place on the spot.

I have sent a copy of this letter to SS Obergruppenfuehrer Pohl.

Heil Hitler!

[Signed] Globocnik

Enclosure*

[Stamp]

Personal Staff of Reich Leader SS

Received 10 Jan 1944

Journal No. 1851/44

To: Reich Leader

[Signed] SCHUSTER

TRANSLATION OF DOCUMENT NO-057
PROSECUTION EXHIBIT 487

REPORT BY GLOBOCNIK ON "ACTION REINHARDT," UNDATED
(ENCLOSURE TO HIS LETTER TO HIMMLER, 5 JANUARY 1944,
DOCUMENT NO-064)

Top Secret Reich Matter

[Handwritten] 18 January 1944

4 copies—1st copy [initials] H. H. [Heinrich Himmler]

Economic Section of the Action Reinhardt

Combined in the SS Economic and Administrative Main Office—
Special tasks "G", for which I am responsible and have not been
relieved of, the entire Reinhardt Action is divided into four
branches—

- A. The deportation itself.
- B. The utilization of manpower.
- C. The utilization of property.
- D. The recovering of hidden values and real estate.

A. *The deportation*

It has been carried out and brought to a close. The prerequisite for this was that with the meager powers on hand to seize the people by means of a methodically correct treatment, and to cause the least possible economic damage to the war production.

On the whole this was accomplished. Considerable damage re-

* Enclosure follows as Document NO-057, Prosecution Exhibit 487.

sulted only in Warsaw where due to a mistaken situation the conclusion [of the deportation] was carried out methodically wrong.

Because of my transfer I could not settle matters in Lodz.

The installations which had been set up for this action and the means which had resulted from it which were to be considered as means of the Reich, have been completely removed. For the purpose of supervision a small farm, occupied by an expert was developed in each camp. He has to be paid rent regularly for the upkeep of the farm.

B. *Utilization of manpower*

The entire manpower was brought together and kept in closed camps into which manufacture of essential items for war had been transferred.

For this the requirements were as follows:

1. Construction of all housing quarters.
2. Construction of workshops and procurement of all the industrial installations such as machinery, power, supply, etc.
3. A basis for supplies, first by making use of TWL's [Truppenwirtschaftslager—troop supply depots] and otherwise by setting up agricultural establishments in the vicinity of the camps.
4. Installations for setting up satisfactory sanitary and hygienic conditions.
5. Security measures—
 - a. By respective basic security measures.
 - b. By having a security organization within the camp.
 - c. By keeping an adequate guard. For this purpose SS guards were established which, led by Germans, rendered for the most part satisfactory service. The reliability was to be increased by intermingling of these guards with Reich-German guards from the concentration camps.
 - d. By having the SS Economic and Administrative Main Office take over the management of the camps, the prerequisite for a satisfactory security situation was accomplished.
6. Correct leadership and methodical treatment was made possible by giving extensive training to the German personnel in charge. It became evident that the working capacity of the Jews was steadily on the increase.
7. The commercial and mechanical sides were safeguarded by establishing commercial and mechanical management of the plant. "Osti" was founded for this purpose as second factory management the "Deutsche Ausruestungswerke" [German Equipment Works].

All together 18 establishments had been built up; still more were to be added. About 52,000 laborers were available. On this

basis of labor it was possible to accept rush orders from the Armament Inspection as well as from the Reich Ministry Speer, and thus substitute for bombed-out plants.

The demands from these places were very large. "Osti" and German Equipment Works were directed by me personally whereas of other plants, such as Heinkel Airplane Works, I was only custodian. Supplement 1 contains factory report and production figures.

The orders on hand will be enough to keep DAW working at full capacity until March, while the other factories have work enough for 2-3 months.

C. *Utilization of property*

The utilization of property as carried out by Reinhardt 1 is given in supplement 2 and has been completed.

D. *Recovering of hidden values and real estate*

Recovery of hidden values and the utilization of real estate is subdivided in—

1. Equipment which had become Aryan property, such as machinery, raw materials, etc., by "Osti".

6.3 million Reich marks is the result up to date, 7-8 millions are to be recovered yet.

This seizure had one advantage, inasmuch as it comprised all those who in this manner, with Jewish assistance, had built up factories without cost to them and thus became rich without effort.

2. Seizure of Jewish claims at home and abroad, by making the camp inmates relinquish their claims in favor of "Osti", who then collected claims. The result of the first effort amounted to 11,000,000 zlotys relinquished of which apparently at least one-half could be collected. Since it was possible to ascertain also money transferred to foreign countries, this action could have become a source of valuable foreign currency for the Reich.

3. Real estate was turned over to the real estate administration of the Government General for utilization.

All the installations described above were functioning perfectly when I departed. Since the Reich Leader SS in July 1943 already had hinted at the possibility of my transfer within the year, I proceeded immediately with the setting in order and financing of the establishment which I had founded and turned over the entire equipment to the SS Economic and Administrative Main Office.

The following measures were taken:

1. On 13 August 1943 the entire SS training camp Trawniki was handed over by SS Obergruppenfuehrer Pohl. (See letter of 13 August 43—Chef A/Fr./S—encl. 3)

2. On 7 September 43 in a discussion with Obergruppenfuehrer Pohl it was decided to take over 10 labor camps in the Lublin district as branch camps of concentration camp [KZ] Lublin and furthermore to turn over other labor camps in the Government General. The manager of the Lublin KZ was given orders accordingly. This discussion resulted from a visit of SS Obergruppenfuehrer Krueger and SS Standartenfuehrer Schellin. (See file notation of the chief of the SS WVHA of 7 September 43-D II/L (supplement 4) (Az.: 29 Ma./F)).

3. Following this in a communication of 14 September 1943 the commander of KZ Lublin informed the SS labor camps that they had become branch camps of KZ Lublin. The mingling of the foreign protective guards with the Reich German KZ guards was also introduced.

4. On 22 October 1943 SS Obergruppenfuehrer Pohl announced that he had ordered the following labor camps to be taken over by the Amtsgruppe D:

- (a) Old Lublin airport.
- (b) SS Labor camp Trawniki.
- (c) SS Labor camp Poniatowa.
- (d) Forced labor camp and SS shops in Radom.
- (e) Forced labor camp and SS shops in Budzyn.
- (f) Main camp Krakow-Placzow.
- (g) German Equipment Works, Lublin.
- (h) Armament camps at Lvov.

5. In the discussion of 22 October 1943 SS Obergruppenfuehrer Pohl informed me that I was to be replaced as 1st manager of "Osti" by the 2d manager and a new 2d manager was to be appointed.

My release was also to be effected.

I also fully informed my successor and pointed out his supervisory duties.

I had thereby created the basis necessary for the continuance.

The foundation for security had been provided and was guaranteed through the KZ management.

Up until now my release has not been effected.

On 3 November 1943, the labor force was withdrawn from the labor camps and the works were closed down.

The camp leaders had not been informed of this action, although the responsibility rested with them, and I was therefore hampered in my supervisory duties. I gave orders to the camp leaders, to carry out agreed contracts and to continue to accept orders or sublet them.

The day before the camp was cleared General Schindler, Armament Inspectorate Krakow, made an agreement with the camp

leaders, based on the consent of SS Obergruppenfuehrer Krueger that—

a. In the future only armament orders were to go to the labor camps.

b. On 2 November he had been assured that 10,000 more Jews were to be made available for the armament projects.

This agreement could not be carried out any more.

[Signed] GLOBOCNIK
SS Gruppenfuehrer and
Major General of the Police

PARTIAL TRANSLATION OF DOCUMENT NO-726
PROSECUTION EXHIBIT 496

CIRCULAR FROM DEFENDANT VOGT, 15 MARCH 1944, REQUESTING
REPORTS ON EXECUTION OF "ACTION REINHARDT"

SS Economic and Administrative Main Office

Ref: A IV/Vo/Koe. 3.44. Journ. No. 391/44

Secret

Berlin, 15 March 1944

Secret 27/43

Distribution: All SS Economists, or Administrations, attached to the Higher SS and Police Leaders according to distribution list of December 9, 1943 (see attached)

Secret!

Subject: Administration of Jewish property.

Reference: Gef. SS Economic and Administrative Main Office of 9 December 1943; Az. A II/3 Reinh. Secret Journal No. 13/45

With reference to the directive of the chief of the SS Economic and Administration Main Office, it is again requested to report here whether there occurred in the offices of your particular area of jurisdiction any receipts, or expenditures for resettlement of Jews, and whether and where a settlement of these accounts was accomplished.

Negative report required.

BY ORDER:

[Signed] VOGT
SS Standartenfuehrer Chief of Auditing Office

TRANSLATION OF DOCUMENT NO-2756
PROSECUTION. EXHIBIT 541

LETTER BY POHL TO HIMMLER, 29 JULY 1944, SUGGESTING DISTRIBUTION OF 16 GOLD PRECISION WRIST WATCHES TO COMMANDERS OF TECHNICAL UNITS

[Stamp]
Personal Staff Reich Leader SS
Archives
File No. Secret 332/10

The Chief of the SS Economic and Administrative
Main Office

A II/3 Reinh./Me/Ro Secret Diary No. 69/44

Berlin, 29 July 1944
Lichterfelde-West
Unter den Eichen 126-135
Tel. Local 76 52 61
Long Dist. 76 51 01

[Stamp] *SECRET* [Himmler's initials] H H

To the Reich Leader SS
Berlin SW 11
Prinz-Albrecht-Str. 8

Subject: Distribution of watches to members of the Waffen SS.
Reference: No previous reference.
Reich Leader:

Among the watches which came from Action Reinhardt are 16 gold precision wrist watches with stop devices and technical reading devices. These are particularly valuable articles made of sovereign gold. The value of the watches is about 300 Reichsmarks each (peacetime retail price), according to the estimate of the Berlin pawn shop. I had the watches repaired by office D II at Oranienburg, and I am forwarding to you 15 watches by courier. One watch will be forwarded in about 3 weeks after repairs are made, since an important repair part is not available here.

I assume that you want the distribution of these valuable gifts reserved for the watch distribution to the combat troops themselves. Because of their special devices, the watches are best suited for commanders of technical units.

Heil Hitler!
[Signed] POHL

SS Obergruppenfuehrer and Lt. General of the Waffen SS
[stamp]
Personal Staff RF-SS
Rec. 31 July 1944
[illegible]
To: RF

TRANSLATION OF DOCUMENT NO-725
PROSECUTION EXHIBIT 481

CIRCULAR OF POHL, 9 DECEMBER 1943, CONCERNING THE
HANDLING AND AUDITING OF THE "ACTION"

The Chief of the SS Economic Administrative Main Office
File No.: A II/3 Reinhardt Gef. Journal No. 13/43
Berlin, 9 December 1943
Lichterfelde-West
Unter den Bichen 126-135
Telephone: Local 76 52 61
Long Distance: 76 51 01

Secret 27/43

[Handwritten note and initials illegible]

Subject: Administration of Jewish Property.
Reference: Decree of Reich Leader SS of 12 September 1942,
Top Secret.

Enclosure: 1 *

Distribution:

[Handwritten remark and initial illegible]

To all Chiefs of Main Offices
To all Higher SS and Police Leaders
To all SS Economists and/or Administrations with the Higher
SS and Police Leaders
Division B
Division D Oranienburg
SS Economic Administrative Main Office, Office A IV
SS Gruppenfuehrer Sporenberg
SS Sturmbannfuehrer Wippern, Administration Special
Tasks "G" Lublin
SS Obersturmbannfuehrer Moekel, Administration Concen-
tration Camp Auschwitz.

An inquiry from the Supreme Auditing Court of the Reich
(Rechnungshof) gives occasion to point out the following:

All amounts of negotiable currency are to be transferred to the

* Not available.

Reich revenue. As far as special accounts have been opened for the assessment of these amounts, no changes will be necessary. All receipts and expenditures, however, are to be treated according to the rules of the Reich Auditing Code and the Reich Budget Ordinance. Expenditures are only authorized insofar as they are basically connected with the execution of the "Action."

The amount of the accounts is to be kept as low as possible and is in no case to exceed the monthly requirements. All amounts over and above these requirements are to be handed over to the competent SS economist who will transfer the amounts received to the SS Economic Administrative Main Office, office A II/3 by means of book entries. Units in the Reich territory make transfers through the Reich Bank Berlin-Schoeneberg No. 1488 to the SS Economic Administrative Main Office. Account office A II/3 does the final accounting and/or transfer to the Reich Main Finance Office. Upon completion of the resettlement operation the vouchers will have to be presented for auditing to the SS Economic Administrative Main Office, office A IV. As regards the use of the other values, foreign exchange, precious metals, jewelry, etc. as well as textiles and consumer goods, my decree of 26 September 1943 applies, a copy of which is attached hereto. The subordinated SS offices are to be informed accordingly.

The Chief

of the SS Economic Administrative Main Office

[Signed] POHL

SS Obergruppenfuehrer and Lt. General of the Waffen SS

100 copies

Check No. 61

PARTIAL TRANSLATION OF DOCUMENT NO-554
PROSECUTION EXHIBIT 448a

LETTER FROM DWB TO SS SAVINGS BANK ASSOCIATION, 7 JUNE 1943, ANNOUNCING FRANK'S AUTHORIZATION TO REPAY THROUGH THE BANK, A LOAN FROM THE RED CROSS; LETTER FROM DWB TO FRANK, SAME DATE, REQUESTING LOAN FROM REINHARDT FUND TO REPAY THIS LOAN AND A DIRECT LOAN OF THE RED CROSS

[Stamp] Confidential!

To the SS Savings Bank Association (e. V.)

Berlin-Lichterfelde-West

Unter den Eichen 129

A I/3-File Number VII/1/07/Ru. 2 June 1943-WL/Kue.-

7 June 1943

Subject: Loan to the Economic Enterprises of the Schutzstaffel
[SS]

With the permission of SS Gruppenfuehrer Frank the following
loans, as per 31 May 1943, will be repayed:

German Equipment Works.....	RM 1,500,000.00
German Food	RM 300,000.00
Freudenthal Beverages	RM 936,777.19
German Experimental Institute.....	RM 3,590,415.73
Allach	RM 504,086.62
	<hr/>
	RM 6,831,279.54
	<hr/>

You are requested to undertake yourself the calculation of interest for the months of April and May, with the enterprises concerned. The refunded sum is to be used for the repayment of the Red Cross loan, according to the instructions of Gruppenfuehrer Frank.

Heil Hitler!
German Economic Enterprises Limited
[Signed] DR. WENNER

[Handwritten] To be filed under Secret Documents
Copy for file D 4 B

[Stamp] Confidential!

To SS Gruppenfuehrer Frank
Please forward to
SS Hauptsturmfuehrer Melmer
in the building

[Initialed] Po/6
-WL/Kue.- 7 June 1943

Subject: Loan from the Reinhardt Fund.

With reference to the various verbal discussions it is requested that RM 8,000,000 may be transferred as a first installment of the planned Reich credit. The sum is to be used as follows:

1. *Repayment of the loans of the SS Savings Bank Association*

a. German Equipment plants.....	RM 1,500,000.00
b. German Food	RM 300,000.00
c. Freudenthal Beverages	RM 936,777.19
d. German Experimental Institute	RM 3,590,415.73
e. Allach	RM 504,086.62

RM 6,831,279.54

2. <i>Direct loans of the Red Cross</i>	
Office W IV of the Economic and Administrative Main Office.....	RM 1,000,000.00
	RM 7,831,279.54
3. In order to make a round sum, as loan to the	
DWB	RM 168,720.46
	RM 8,000,000.00

Permission is requested for the following transfers:

RM 6,831,279.54 to the SS Savings Bank Association (e. V.)
 Bank of German Labor AG, Berlin
 account 68 556.

RM 1,000,000 to the Red Cross
 post office account 13 013, Berlin.

RM 168,720.46 to the German Economic Enterprises,
 Dresdner Bank, branch bank 12
 Steglitz, account 2300 Z.V.

Heil Hitler!

German Economic Enterprises Limited
 [Signed] Dr. Wenner
 [signature illegible]

TRANSLATION OF DOCUMENT NO-059
 PROSECUTION EXHIBIT 488

REPORT BY GLOBOCNIK, UNDATED, ON ADMINISTRATIVE
 DEVELOPMENT OF "ACTION REINHARDT"

*Report on the Administrative Development of the Operation
 Reinhardt*

I

All valuables accrued from this action were seized centrally by the administration created by me, accordingly classified and entered. The seizure extended to the entire Government General. The officials came from the SS Economic and Administration Main Office.

The use and materialization of the valuables were carried out according to the directives of Reich Leader SS, summarized during the course of the action in directives of 26 September 1942 and 9 December 1943, and the Economic and Administration Main Office was entrusted with the settlement as over against the Reich offices.

The valuables collected by me were continually handed over on receipt to the SS Economic and Administrative Main Office

and the latter forwarded the stocks to the Reich Bank, Reich Ministry for Finance, and Textile Works, etc.

On order of the Reich Leader SS, essentials were permitted to be drawn for Racial Germans for their supply, for the purpose of the SS itself, the SS Reich Leader forbade any use.

The remarkable thing of the account is that the collection of the revenue was not absolutely binding as the collection of the stocks was only carried out on order, and only the decency, purity, and also the supervision of the SS men employed in this operation could guarantee an absolute delivery.

However, what had been seized and collected then and taken by the department Reinhardt, has been accounted for and delivered with the greatest expediency and without defrauding.

A preliminary examination prior to 1 April 1943 by SS Obersturmbannführer Vogt of the SS Economic and Administrative Main Office has already taken place and proved to be in correct order. For the rest, the preliminary examination has still to be carried out.

On the basis of an agreement with the Reich Finance Ministry this preliminary examination is final and, without the Reich Accounting Court, the vouchers and documents will be destroyed in accordance with secrecy regulations.

II

The valuables accounted for are—

1. *Reichsmarks and Zlotys—amounts.* This revenue covered the total expenditures, transport costs, duties, etc., which arose from this operation. The by far greater part was placed at the disposal of the SS economist in the Government General and the amounts credited in Reichsmarks to the operation Reinhardt in clearing by the SS Economic and Administrative Main Office and handed over to the Reich Bank.

For reasons of foreign exchange, a small part was used as credit for various economics offices and then also credited by the SS Economic and Administrative Main Office in clearing.

Moreover, the urgent provision of material was covered by price differentials. All these transactions were carried out with the approval of the SS Economic and Administrative Main Office. A further amount was currently placed at the disposal of the concentration camp in order to carry out constructions, to build up the administration, and to provide the necessary agricultural machines. Accurate bookkeeping kept on these matters, the purchases were constantly confirmed by me and all documents added to the final balance.

The books were kept by the chief administrator of the concentration camp, more precisely separate from my administration,

as the administration of the concentration camp was, by order of SS Economic and Administrative Main Office, independent of the SS Garrison Administration Lublin. Compensation to Reinhardt for these expenditures had still to be made by the office which will finally take over the enterprise.

2. Currency in notes or gold mint were collected, sorted, and handed over to the Reich Bank also via the SS Economic and Administrative Main Office.

3. Jewels, trinkets, watches, and the like were assorted according to their value and were delivered to the Economic and Administrative Main Office. On the latter's directive, watches made of non-rare metal were delivered to the armed forces; glasses were put at the disposal of disabled soldiers after adjustment, and other worthless items were mainly delivered to the army offices to cover urgent needs. The corresponding vouchers are available.

4. Textiles, clothing, linen, bed feathers, and rags were collected and assorted as to their quality. The assorted items had to be searched for hidden values and finally had to be disinfected. More than 1,900 wagons had been put at the disposal of the agencies designated by the Reich Ministry of Economics on order of the Economics and Administrative Main Office. These items were not only used to provide clothes for workers of foreign extraction, but a considerable part of them was used for respinning. No case of sickness became known though the clothing was mostly taken from spotted fever patients, which proves that the disinfection was adequate. The most valuable clothing was put aside and was used for the supply of racial Germans [Volksdeutsche] on order of the Reich Leader. Shoes were also assorted as to their usefulness and were then delivered either to racial Germans and to the concentration camps for supply of the inmates, or they were made over and were utilized for wooden shoes for prisoners.

5. Valuable items of different types such as stamps, coins, and the like were assorted and were delivered to the SS Economic and Administrative Main Office, worthless items were destroyed.

6. Other items such as soap, lotions, plates, and the like were used in the Jewish camps; glass, old iron items, etc., were delivered to the utilization places, to be remanufactured.

7. The food kept during the transportation was used for the supply of Jewish camps.

8. Valuable furniture and household items were reconditioned and mostly given to racial German settlers for use. But German agencies and army agencies got also such furniture as a loan against issuance of a bill. Items of minor value were either destroyed or given to the population as premiums for good har-

vests, etc. Efforts were made to dismantle parts such as locks, hinges, and the like from items which could not be used, and to use them again.

The vouchers for the items delivered as a loan were turned in to the Higher SS and Police Leader East on a monthly basis.

According to an order of the Reich Leader SS dated 22 September, the whole supply was finished, utilized and delivered, so that hardly a great quantity will still be available.

Available is furniture which was necessary for the carrying out of the operation such as premanufactured buildings, frames, vehicles, etc., which had been purchased with the available means. These means have been received; however, a decision has still to be passed on their utilization.

The total value of these items amounts to approximately 180,000,000 RM according to the attached list.* The lowest value was taken as a basis so that the total amount is probably twice as high, apart from the value of the received items which are short, such as textiles of which more than 1,900 wagons had been delivered to German industry.

[Signed] GLOBOCNIK
SS Gruppenfuehrer and Major General of the Police

TRANSLATION OF DOCUMENT NO-062
PROSECUTION EXHIBIT 489

DETAILED LIST OF MONEY, PRECIOUS METALS, JEWELS, OTHER
VALUABLES, AND TEXTILES, SIGNED BY GLOBOCNIK AND WIP-
PERN (UNDATED)

Precious metals

236 gold ingots	.....	2,909.68 kg	at RM 2,800.00	RM 8,147,104.00
2,143 silver ingots	.....	18,733.69 kg	at RM 40.00	RM 749,347.60
platinum	.....	15.44 kg	at RM 5,000.00	RM 77,200.00
				RM 8,973,651.60

Foreign Currency, notes

USA Dollars	.....	1,081,521.40	at RM 2.50	RM 2,703,803.50
English Pounds	.....	15,646.11	at RM 9.30	RM 145,512.80
Palestinian Pounds	.....	4,922.50	at RM 9.30	RM 45,779.25
Canadian Dollars	.....	8,966.25	at RM 2.50	RM 22,415.62
Rubles	.....	2,454,278.35	at RM 0.10	RM 245,427.84
French Frs.	.....	1,468,486.35	at RM 0.05	RM 73,424.31
Swiss Frs.	.....	119,302.33	at RM 5.80	RM 691,953.51
Lire	.....	6,465.08	at RM 0.10	RM 646.50
Prot. Kr.	.....	1,745,601.50	at RM 0.10	RM 174,560.15

* Document NO-062, Prosecution Exhibit 489.

Turkish Pounds	39.50	at RM	1.90	RM	75.05
Belga	12,449.25	at RM	0.40	RM	4,979.70
Lei	55,975.54	at RM	0.02	RM	1,119.51
South African Pounds.....	119.50	at RM	4.40	RM	525.80
Dutch Guilders	133,986.95	at RM	1.33	RM	178,202.64
Leva	5,995,421.00	at RM	0.01	RM	59,954.21
Australian Pounds	55.00	at RM	2.50	RM	137.50
Dinars	435,641.00	at RM	0.05	RM	21,782.05
Karbowanets	164,169.00	at RM	0.10	RM	16,416.90
Pengoe	28,392.50	at RM	0.60	RM	17,035.50
Slovak Kronen	103,538.35	at RM	0.10	RM	10,353.84
Drachmas	4,875,419.70	at RM	0.02	RM	97,508.29
Swedish Kronen	4,377.00	at RM	0.60	RM	2,626.20
Norwegian Kronen	775.00	at RM	0.60	RM	465.00
Argentine Pesos	977.55	at RM	1.00	RM	977.55
Pesetas	1,471.00	at RM	2.40	RM	3,530.40
Finnish Marks	1,140.00	at RM	0.05	RM	57.00
Danish Kronen	1,270.00	at RM	0.52	RM	660.40
Brasil Milreis	63.00	at RM	0.09	RM	5.67
Egyptian Pounds	20.00	at RM	4.40	RM	88.00
Litas	175.00	at RM	0.10	RM	17.50
Yen (Jap.)	4.00	at RM	0.50	RM	2.00
Lats	20.00	at RM	0.10	RM	2.00
Paraguayan Pesos	12.00	at RM	0.60	RM	7.20
Cuban Pesos	57.00	at RM	0.60	RM	28.20
Uruguay Pesos	1.00	at RM	0.60	RM	0.60
Bolivian Pesos	4.50	at RM	0.60	RM	2.70
Mexican Pesos	3.00	at RM	0.50	RM	1.50
Albanian Frs.	195.44	at RM	0.10	RM	19.54
Rhodesia Pounds	8.00	at RM	4.00	RM	32.00
New Zealand Pounds.....	.50	at RM	4.00	RM	2.00
Algerian Frs.	30.00	at RM	0.10	RM	3.00
Lux. Frs.	40.00	at RM	0.50	RM	20.00
Java Guilders	10.00	at RM	1.30	RM	13.00
Danz. Guilders	1,038.00	at RM	1.00	RM	1,038.00
Columbian Pesos	1.00	at RM	0.60	RM	0.60
Mozambique Esc.	1.00	at RM	0.60	RM	0.60
Manchukuo Cent	15.00	at RM	0.50	RM	7.50
Chinese Dollars	1.00	at RM	1.50	RM	1.50
				RM	4,521,224.13

Minted gold currency

USA Dollars.....	249,771.50	at RM	4.20	RM	1,049,040.30
English Pounds.....	610.00	at RM	20.40	RM	12,444.00
Rubles	198,053.00	at RM	2.15	RM	425,813.95
Austrian Kronen....	73,230.00	at RM	0.85	RM	62,245.00
French Frs.....	38,870.00	at RM	1.62	RM	62,969.40
Reichsmarks	23,485.00	at RM	1.00	RM	23,485.00
Portuguese Reis....	20,000.00	200 Esc. at RM	1.00	RM	200.00
Swiss Frs.....	6,970.00	at RM	16.50	(for 20 Frs)	23,001.00
Ducats	6,614.00	at RM	10.00	RM	66,140.00
Lire	3,740.00	at RM	0.50	RM	1,870.00

Austr. Shillings.....	2,925.00	at RM	2.3	RM	1,950.00
Turkish Pounds.....	417.75	at RM	3.50	RM	1,462.12
Belga	1,740.00	at RM	0.50	RM	870.00
Leva	30.00	at RM	0.50	RM	15.00
Lei	1,177.50	at RM	0.50	RM	588.75
South African Pounds	4.00	at RM	20.40	RM	81.60
Dutch Guilders.....	905.00	at RM	17.00	(for 10 guild- ers)	1,538.50
Australian Pounds ..	7.00	at RM	20.40	RM	142.80
Dinars	41.00	at RM	0.50	RM	20.50
Swedish Kronen....	30.00	at RM	11.20	(for 10 Kr.)	33.60
Norwegian Kronen..	55.00	at RM	11.20	(for 10 Kr.)	61.60
Pesetas	50.00	at RM	1.50	RM	75.00
Finnish Marks.....	80.00	at RM	1.00	RM	80.00
Zlotys	2,060.00	at RM	0.50	RM	1,030.00
Danish Kronen.....	360.00	at RM	11.20	(for 10 Kr.)	403.20
Czech Ducats.....	17.00	at RM	10.00	RM	170.00
Yen	2.00	at RM	0.50	RM	1.00
Cuban Pesos.....	10.00	at RM	4.20	RM	42.00
Mexican Pesos.....	111.50	at RM	4.20	RM	468.00
Albanian Frs.....	20.00	at RM	0.50	RM	10.00
Yugoslavia Ducats..	1.00	at RM	5.00	RM	5.00
Tunesian Frs.....	180.00	at RM	1.62	RM	291.60
Peru Libras	1.00	at RM	1.00	RM	1.00
Chile Dollars.....	1.00	at RM	4.20	RM	4.20
					RM 1,736,554.12

Jewels and other valuables

			Average RM	RM
15,883	pieces	gold rings with brill. and diam.	1,500.00	23,824,500.00
9,019	pieces	gold ladies' wrist watches.....	250.00	2,254,750.00
3,681	pieces	gold gentlemen's pocket watches	500.00	1,840,500.00
353	pieces	bracelets with brill. and diam.	3,500.00	1,232,000.00
1,716	pairs	earrings, gold with brill. and diam.	250.00	429,000.00
2,497	pieces	brooches, gold with brill. and diam.	2,000.00	4,994,000.00
130	pieces	separate large single brilliants	1,000.00	130,000.00
2,511.37	carats	brilliants	100.00	251,137.00
13,458.62	carats	single diamonds.....	50.00	672,931.00
291	pieces	pins with brilliants.....	100.00	251,137.00
660	pieces	gold gentlemen's wrist watches	100.00	66,000.00
458	pieces	ladies' lapel watches, with brill.	500.00	229,000.00
273	pieces	ladies' platinum watches with brill.	1,200.00	327,600.00
349	pieces	ladies' gold lapel watches.....	250.00	87,250.00
362	pieces	ladies' gold watches with brill. and diam.....	600.00	217,200.00
27	pieces	bracelets with brill. and diam...	250.00	6,750.00

			Average RM	RM
40	pieces	gold brooches.....	350.00	14,000.00
18	pieces	cuff links with brill. and diam..	150.00	2,700.00
114.20	kilos	pearls		6,000,000.00
63	pieces	diamond-studded platinum watch cases.....	1,000.00	63,000.00
4	pieces	ladies' platinum watches.....	300.00	1,200.00
5	pieces	gentlemen's pocket watches with brill.	600.00	3,000.00
4	pieces	necklaces with brill. and diam.	1,500.00	6,000.00
8	pieces	ladies' gold ring watches.....	150.00	1,200.00
4	pieces	ladies' lapel watches with pearls	200.00	800.00
18	pieces	gold fountain pens.....	20.00	360.00
5	pieces	gold automatic pencils.....	15.00	75.00
1	piece	gold cigarette case.....	400.00	400.00
60,125	pieces	watches of all kinds.....	10.00	611,250.00
7.80	kilos	corals		600.00
3	pieces	gold compacts.....	50.00	150.00
103,614	pieces	watches to be repaired.....	2.00	207,228.00
29,391	pieces	spectacles	3.00	88,173.00
350	pieces	razors	2.00	700.00
800	pieces	pocket knives.....	1.00	800.00
3,240	pieces	purses	1.50	4,860.00
1,315	pieces	pocketbooks	2.50	3,287.50
1,500	pieces	scissors	0.50	750.00
230	pieces	flashlights	0.50	115.00
6,943	pieces	alarm clocks, to be repaired....	1.00	6,943.00
2,343	pieces	alarm clocks in working condi- tion	4.00	9,372.00
627	pieces	sun glasses.....	0.50	313.50
41	pieces	silver cigarette cases.....	15.00	615.00
230	pieces	clinical thermometers.....	3.00	690.00
				RM 43,662,450.00

Textiles

1,901	boxcars with clothes, linen, feathers for bedding and rags; average value.....	RM 26,000,000.00
	stocks, average value.....	RM 20,000,000.00
		RM 46,000,000.00

Summary

Delivered money, Zloty and RM notes.....	RM 73,852,080.74	
Precious metals	RM 8,973,651.60	
Foreign currency, in notes.....	RM 4,521,224.13	
Foreign currency, in minted gold.....	RM 1,736,554.12	
Jewels and other valuables.....	RM 43,662,450.00	
Textiles	RM 46,000,000.00	
		RM 178,745,960.59

[Signed] RZEPA
SS Oberscharfuehrer and Cashier

[Signed] WIPPERN
SS Sturmbannfuehrer and
Administrative Director

[Signed] GLOBOCNIK

TRANSLATION OF DOCUMENT POHL 8
POHL DEFENSE EXHIBIT 7

EXTRACTS FROM GOERING'S DECREE, 12 JUNE 1940, CONCERNING
MAIN TRUSTEE OFFICE EAST AND ADMINISTRATION OF POLISH
PUBLIC AND PRIVATE PROPERTY

*Ministerial Bulletin of the Reich and Prussian Ministry of the
Interior*

Published by the Reich Ministry of the Interior
Number 27 Berlin, 3 July 1940 5th (101st) year of issue
Page 1254

Main Trustee Office East. Decree issued by the Chairman of the Council of Ministers for the Defense of the Reich and Commissioner for the Four Year Plan, of 12 June 1940—V P 7713/1.

The activation of the administration for the Incorporated Eastern Territories has been carried out. The legislation required thereto has, on the whole, been passed. In consequence to the changes occasioned thereby, I decree:

Article 1: Main Trustee Office East

(1) The Main Trustee Office East is an agency of the Commissioner for the Four Year Plan, which carries out his tasks within the frame of competency imposed on it by myself.

(2) Its authority will be regulated by the following provisions:

Article 2: Tasks

The Main Trustee Office East has the following tasks:

a. The administration of the property of the former Polish State, according to the decree of 15 January 1940 (Reich Law Gazette I, page 174), and of other public and publicly owned properties * * *.

b. (1) Seizure and administration of properties of members of the former Polish State.

(2) The Main Trustee Office East may make final transfers of property according to directives issued by myself.

(3) It remains up to future regulations in which manner and degree compensation is to be granted for property losses.

* * * * *

Article 3: Confiscation, and Administration by
Commissioners

(1) Within the sphere of its tasks, the Main Trustee Office East alone has the right to order confiscation of property, and to appoint and recall commissioners of administration.

* * * * *

Article 6: Sphere of authority to transact business

The Incorporated Eastern Territories are the sphere of au-

thority to transact business by the Main Trustee Office East. The competency of the Reich Commissioner for the Strengthening of Germanism with regard to agricultural property (inclusive of secondary agricultural industries) remains untouched.

Article 7: Official Aid

(1) All Reich district and municipal authorities, as well as their subordinate agencies, must furnish official aid to the Main Trustee Office East and its organs.

(2) According to an agreement made with the Reich Leader SS and Chief of the German Police in the Reich Ministry of the Interior, the Polish authorities are at its disposal for the compulsory execution of its orders.

* * * * *

TRANSLATION OF DOCUMENT POHL 7
POHL DEFENSE EXHIBIT 6

EXTRACTS FROM GOERING'S DECREE, 17 SEPTEMBER 1940,
CONCERNING TREATMENT OF POLISH PROPERTY

Reich Law Gazette
Part I

1940 Published in Berlin, 28 September 1940 No. 170
Page 1270

Decree concerning the treatment of properties belonging to Members of the former Polish State.

17 September 1940

According to the decree for the carrying out of the Four Year Plan, of 18 October 1936 (Reich Law Gazette I, page 887), combined with the decree to introduce the Four Year Plan into the Eastern Territories, 30 October 1939 (Reich Law Gazette I, 2125), the following is herewith decreed for the area of the greater German Reich, including the Incorporated Eastern Territories:

Article 1

(1) The properties of the members of the former Polish State are, within the area of the greater German Reich inclusive of the Incorporated Eastern Territories, subject to confiscation, administration by commissioners, and seizure, according to the following provisions:

* * * * *

Article 2

(1) Confiscation must be ordered in the case of properties owned by—

- a. Jews,
- b. Persons who fled or who are permanently absent.

(2) Seizure may be ordered—

a. if the property is needed for the public weal, especially in the interest of the defense of the Reich or for the Strengthening of Germanism, or

b. if the proprietors or other types of beneficiaries emigrated into the former territory of the German Reich after 1 October 1918.

* * * * *

Page 1273

Berlin, 17 September 1940

The Chairman [Vorsitzende] of the Council
of Ministers for the Defense of the Reich
and Commissioner of the Four Year Plan

[Signed] GOERING
Reich Marshal

TRANSLATION OF DOCUMENT POHL 9
POHL DEFENSE EXHIBIT 8

CIRCULAR LETTER OF FOREIGN OFFICE TO VARIOUS MINISTRIES,
31 JULY 1942, CONCERNING TREATMENT OF JEWISH PROPERTY;
AND APPROVING ANSWER FROM REICH MINISTRY OF JUSTICE,
18 AUGUST 1942

Foreign Office D III g
No.

In future correspondence please refer
to this reference number and subject

Berlin W 8, 31 July 1942

To:

The Commissioner of the Four Year Plan,
attention of Herr Ministerialrat von Hormann
The Reich Ministry of the Interior,
attention of Herr Ministerialrat Dr. Lueznier
The Reich Ministry of Economics,
attention of Herr Oberregierungsrat Dr. von Goslin
The Reich Ministry of Finance,
The Reich Ministry of Justice
The Party Chancellery,
attention of Herr Oberregierungsrat Neupert
Munich 33, Fuehrerbau
Herr Reich Minister of Forestry

VII a 48-42 g

[Stamp]
E 5088/42
Reich Ministry of Justice
2 August 1942

Express Letter

Subject: Treatment of Jewish property abroad or of foreign
Jewish property in the Reich.

Enclosure: VII a 1663/42.

Told briefly, the following transpired on 30 July 1942 at a departmental conference in the Foreign Office:

Practical experience has proved that it is impossible to determine what Jewish properties are held abroad, which according to article 3 of the 11th decree implementing the Reich Citizenship Law, of 25 November 1941, has become forfeited in favor of the Reich. The illegal transfer and concealment of Jewish properties which may be widely anticipated, plus the necessity of having to rely on the internal authorities of foreign states for cooperation in conducting detailed investigations, and in many cases the political difficulties which prevent such cooperation, all combine to oppose such seizures with insuperable difficulties. They are being aggravated by the fact that those Jews of former German citizenship who live abroad are now considered as stateless, while the foreign Jews who live in the Reich are still in possession of their citizenship. Even in the event of a conforming readiness by foreign states, and because of the same difficulties in different countries, and the inadequacy of their official apparatus—one can by no means count on a clear reciprocity—the Reich may be expected to get a pretty bad bargain in the deal.

On the other hand, it has been proved coincident with the evacuation of foreign Jews from the Reich, the Protectorate and the occupied territories, that it is impossible in many cases to accurately determine an individual's nationality and to safeguard in time the property—values for the foreign state. The deportation actions thus have at times been retarded. The Foreign Office, in agreement with the Reich Security Main Office, therefore consider it the *only* way to come to a quick and final settlement to avoid a limitless chain of difficulties and separate controversies if the Reich and the foreign states renounce mutually, as a matter of principle, all claims to the sequestered fortunes of their respective Jews who live abroad. In order to be able to continue the commenced action, and not to endanger the proceeding solution of the Jewish question in Europe, it is therefore intended to continue the negotiations with the governments in question *on the basis of the Territorial Principle*, and an agreement is requested on their part.

In view of the urgency and far reaching importance of a quick solution of this question, it is requested to set aside any possible

scruples concerning individual cases, in order to bring about a decision as quickly as possible.

BY ORDER:

[Signature]

15 August 1942

Secret!

The Reich Ministry of Justice
IV a 987/42g
To the Foreign Office

Mailed 18 August 1942

Subject: Treatment of Jewish property abroad and of foreign
Jewish property in the Reich.

Reference: Letter of 31 July 1942

.....N.D. III 609 g

For the Chancellery
17 August 1942

Concerning the information received.....there is from the
standpoint of our business interests no objection.

BY ORDER:

[Signature]

Before mailing

Herr.....with request to take notice.

* * * * *

TRANSLATION OF DOCUMENT POHL 10
POHL DEFENSE EXHIBIT 9

THIRTEENTH DECREE, 1 JULY 1943, IMPLEMENTING THE REICH
CITIZENSHIP LAW (NUERNBERG RACE LAW) OF 1935

Reich Law Gazette

Part I

1943 Published in Berlin, 2 July 1943 No. 64
Page 372

Thirteenth Decree for the Reich Citizenship Law, 1 July 1943
According to Article 3 of the Reich Citizenship Law, of 15 Sep-
tember 1935 (Reich Law Gazette I, page 1146) the following is
decreed:

Article 1

- (1) Punishable acts by Jews will be punished by the police.
- (2) The Crime Ordinance concerning Poles, of 4 December 1941, (Reich Law Gazette I, page 759) is not valid any more for Jews.

Article 2

(1) After the death of a Jew, his property will be confiscated by the Reich.

(2) The Reich may, however, grant compensation to those non-Jewish persons who are entitled to an inheritance and to support, if they customarily reside within the Reich.

(3) The compensation may be granted by paying an amount of money. It must not exceed the sales value of the property which was transferred into the dispositional powers of the German Reich.

(4) The compensation may be granted by cession of things and rights from the property which was taken over. No court fees will be charged for the legal transactions required thereto.

Article 3

The Reich Minister of the Interior, in agreement with the highest Reich offices concerned, shall issue the legal and administrative rulings which are necessary for the execution and amendment of this decree. In connection thereto, he shall decide to what extent this decree is in force for Jews of foreign citizenship.

Article 4

This decree will become effective on the seventh day after its publication. It is in force in the Protectorate of Bohemia and Moravia concerning German administration and German jurisdiction. Article 2 will also apply to Jews who are members of the Protectorate.

Berlin, 1 July 1943

The Reich Minister of the Interior

FRICK

The Chief of the Party Chancellery

M. BORMANN

The Reich Minister of Finance

COUNT SCHWERIN VON KROSIGK

The Reich Minister of Justice

DR. THIERACK

TRANSLATION OF DOCUMENT MUMMENTHEY 40 MUMMENTHEY DEFENSE EXHIBIT 41

AFFIDAVIT OF EMIL PUHL,* VICE PRESIDENT OF THE GERMAN REICH BANK, CONCERNING CREDITS GRANTED TO "DEST," AND DELIVERY OF CONFISCATED VALUABLES TO THE REICH BANK

AFFIDAVIT

I, Emil Puhl, born in Berlin on 28 August 1889, vice president of the German Reich Bank and member of the supervisory board

* Defendant in case of United States vs. Ernst von Weizsaecker et al., vols., XII, XIII, and XIV.

[Aufsichtsrat] of the German Gold Discount Bank [Golddiskontobank] in Berlin, at present in the prison of Nuernberg, give the following: after having been duly warned that this declaration on oath will be submitted to the Military Tribunal II in Nuernberg and that any false statements will render me liable to punishment.

1. The two credits granted by the German Golddiskontobank to the DEST (Deutsche Erd- und Steinwerke G.m.b.H., German Earth and Stone Works Ltd.) in 1939 and 1941 refer to a credit allowance of the former Reich Bank president and chairman of the Aufsichtsrat of the Golddiskontobank, Walter Funk, to the Reich Leader SS Himmler. Both credits to the DEST were given by the Golddiskontobank out of the liquid funds of the bank as can be proved by the books of the bank at any time. The fund mentioned in my affidavit of 3 May 1946, Document 3944-PS, Prosecution Exhibit 470, paragraph 7 is identical with these credits. These credits have nothing to do with the deliveries of gold and valuables mentioned in paragraphs 2 to 5 of the same affidavit, which took place after the credits were given to the DEST.

2. These deliveries were made as a result of the general legal regulations, according to which, all the gold and foreign currencies which had been confiscated for the Reich were to be delivered to the Reich Bank as the legally appointed collecting station. Since the confiscations were made in the name and for the account of the Reich, only the Reich Government, represented by the Four Year Plan, was entitled to dispose of the gold and the foreign currencies and the Reich Finance Minister of the equivalent in Reich marks. Nondelivery would have been equal to violating the law and, since this was property of the Reich, would have been considered as embezzlement of this property.

3. The two credits served to aid the economic organization of the German Earth and Stone Works G.m.b.H., I do not know of any arrangements which went beyond this purpose.

4. According to my knowledge, the details of the credit allowance were discussed between the Vorstand of the Golddiskontobank and the manager of the German Earth and Stone Works, G.m.b.H., Dr. Salpeter.

[Signed] EMIL PUHL

Nuernberg, 26 July 1947

TRANSLATION OF DOCUMENT SCHEIDE 17
SCHEIDE DEFENSE EXHIBIT 14

ORDER OF WAFFEN SS, PUBLISHED 15 JUNE 1943, AMENDING REGULATIONS CONCERNING TRANSPORTATION SERVICE OF THE SS AND POLICE

Excerpt from "Verordnungsblatt der Waffen SS" (Decree Gazette of the Waffen SS) Special Supplement No. 12 of 15 June 1943

Transportation Service of the SS and Police

In the interest of a uniform regulation of the transportation system within the SS and police, in agreement with the SS Main offices concerned (SS Main Office, Reich Security Main Office, Order Police Main Office and SS Economic and Administrative Main Office) by consolidating and amending the orders issued previously, the following orders and directives have been decreed:

1. Central agency for the handling and supervision of SS and police shipments (shipments by rail, by water, and by air) will be the SS Transportation Officer at the SS Operational Main Office (TO-SS at the SS FHA). In close cooperation with the Main Offices mentioned above he will handle the carrying-out of shipments and will act as a liaison between the central agencies of the Wehrmacht and the railway authorities in matters concerning transportation.

2. For the purpose of assisting the SS Transportation Officer at the SS Operational Main Office the following branch agencies (SS Transportation Service Offices) have been established:

(a) SS Transportation Officer "East" in Krakow with branch offices in Warsaw and Lvov.

(b) SS Transportation Officer "Southeast," in Prague.

(c) SS Transportation Officer "Southeast II," in Vienna.

(d) SS Transportation Officer "South," in Dachau near Munich.

(e) SS Transportation Officer "West," in Unna/Westphalia.

(f) SS Transportation Officer "Northwest," in Utrecht/Netherlands.

(g) SS Transportation Officer "Paris," in Paris.

(h) SS Transportation Officer "North Russia," in Riga.

(i) SS Transportation Officer "Central Russia," in Minsk.

(k) SS Transportation Officer "South Russia," in Dnepropetrovsk.

For addresses, news communications, and competence districts, see "Organizational Chart of the SS Transportation Service Offices."

3. In regard to assignment and personnel affairs, the SS Trans-

portation officers (par. 2) are subordinate to the SS Operational Main Office, Transportation Officer SS. They receive their instructions and orders directly. In the Occupied Eastern and Western Territories the SS Transportation Officers are subordinate to the Higher SS and Police Leaders as regards supervision. The commanders of the Waffen SS in the Netherlands and in the Protectorate Bohemia-Moravia have directive power as far as transportation problems of the Waffen SS are concerned. The supply in goods of the individual SS Transportation Service Offices has been dealt with in individual orders.

4. The SS Transportation Officers (SS TO's) are competent in all transportation matters of the SS and police. They maintain continuous communication with the transportation service offices of the Wehrmacht, (Transportation commands, etc.) and the offices of the railway. Within their sphere of duties the SS Transportation Officers have to take advantage of all possibilities of consolidating shipments and to rush the carrying out thereof. Furthermore, they are obliged to advise the offices of the SS and the police in regard to transportation problems, and if necessary, to make appropriate suggestions for the complete utilization of the transportation space.

5. Through the central agency [Zentralstelle] (par. 1) and the SS transportation officers (par. 2) in close cooperation with the transportation offices of the armed forces and the railway agencies the following is being directed or supervised:

(a) Shipments of troops and enlisted men of the SS and the police (for field units and replacement units, as well as for field offices and home agencies).

(b) Shipments of supplies and economic goods of the SS and the police (including shipments of animals) (for field units and replacement units, as well as for field offices and home agencies).

Excepted are shipments of groups and combat units of the SS and the police which are tactically subordinate to the armed forces as well as all supply shipments initiated by the armed forces.

Furthermore, the SS transportation officers are acting in an advisory capacity in the planning and establishing of connecting tracks, loading ramps, etc.

6. Shipments of the SS and the police according to paragraph 5 (a) and (b) have to be previously notified to either the SS Operational Main Office (TO-SS) or to the appropriate SS transportation officers (compare survey chart). As far as offices of the SS and police have hitherto addressed their shipment notices to their appropriate Main Offices, this practice will be continued. The Main Offices then will forward the shipment notices to the

SS Operational Main Office (TO-SS) or to the appropriate SS transportation officer. After checking and screening the notices the SS transportation officer at the SS Operational Main Office, or the SS transportation officer who is otherwise competent, will cause the carrying-out of the shipments by appropriate notice and arrangements with the proper offices of the armed forces and the railway.

* * * * *

11. Shipments of goods of the SS and police in entire trains will always be accompanied by accompanying shipment details [Transport-Begleit-Kommandos] of the SS Operational Main Office, if in special cases, accompanying personnel (pick-up details) are not put at disposal by the consignee. If the accompanying of individual car shipments is necessary, the personnel will be put at disposal by the shipper. In urgent cases and in case of personnel shortage, accompanying personnel may be requested from the SS transportation officer at the SS Operational Main Office.

12. In all other cases of shipments of the SS and the police the shipment regulations of the armed forces and the railroad are valid. In the same way the authority of the transportation offices of the armed forces and the railroad remains unaffected.

The Chief of the SS Operational Main Office

JUETTNER

SS Gruppenfuehrer and Major General of the Waffen SS

TRANSLATION OF DOCUMENT HOHBERG 71
HOHBERG DEFENSE EXHIBIT 68

AFFIDAVIT OF EMIL PUHL CONCERNING POHL'S AND SOMMER'S
VISIT TO THE REICH BANK VAULTS IN 1942

AFFIDAVIT

I, Emil Puhl, born on 28 August 1889 in Berlin, at present in the Court prison at Nuernberg, having been informed that I am liable to punishment in the case of a false affidavit, state and declare that my affidavit is true and was made to be submitted as evidence to the Military Tribunal II, case 4, at the Palace of Justice, Nuernberg:

My last position was vice president of the Reich Bank in Berlin. As far as I remember Mr. Oswald Pohl, at that time chief of the WVHA [SS Economic and Administrative Main Office] paid, in 1942 together with several other gentlemen, a visit to the Reich Bank at the suggestion of Reich Bank President Funk.

Visits of this kind took on the following form and as far as I

recall, Pohl's visit was no exception to the rule. As far as I remember details, the coin collection and the safe deposit vault installations of the Reich Bank were inspected, on which occasion the gentlemen were shown the stocks of bank notes and other supplies. During the inspection of the vaults, every visitor was individually accompanied by an official of the Reich Bank. Other valuables beyond the stocks named above were not mentioned nor shown to any of the gentlemen. Moreover, only the outside of the safe deposit boxes was shown to them. I myself probably accompanied Herr Pohl at that time for part of the visit.

It is absolutely out of the question that Dr. Hohberg was shown any pieces of jewelry, dental gold, and other valuables which are said to have been taken away from Jewish persons in the East. This was not even discussed. At the breakfast following the inspection Reich Bank President Dr. Funk was, as far as I know, present at least part of the time. The subject of conversation was chiefly a report of Herr Pohl concerning the activity of the industrial enterprises managed and supervised by him.

As far as I know, Herr Pohl on that day paid a visit to Reich Bank President Dr. Funk without being accompanied by anybody.

I do not recall the individual gentlemen who took part in that inspection of the Reich Bank, nor do I recall the name of Dr. Hohberg, since neither I nor Dr. Funk had a conversation that day with a Dr. Hohberg in particular. In any case no secret discussions were held with Dr. Hohberg; if this had been so, I should certainly remember this name.

[Signed] EMIL PUHL

EXTRACT FROM TESTIMONY OF DEFENDANT POHL *

DIRECT EXAMINATION

* * * * *

PRESIDING JUDGE TOMS: This report I am reading from, Document (NO-059, Prosecution Exhibit 488), says that jewels, trinkets, watches, and the like were assorted according to their value, and were delivered to the Main Office for Economy and Administration. Was that you?

DEFENDANT POHL: Yes. That is I.

Q. Then under five: "Valuable items of different type, such as stamps, coins, and the like were assorted and delivered to the SS Main Office for Economy and Administration," and that is you?

A. Yes.

* Complete testimony is recorded in mimeographed transcript, 16, 19-23, 27-29 May, 2 and 8 June, 25 August, 1947; pp. 1253-2040 and 6759-6786.

Q. Is that statement true? Were they delivered to you?

A. That statement is true. This statement is true. However, they were not transferred to me.

Q. Well, what do you mean by that. Were they delivered to you, and you say, "Yes, but they were not transferred to me."

A. No. The valuables were not delivered to the WVHA. These were not accepted there, but through the WVHA they were transferred to the Reich Bank. That is what was said in paragraph 2, your Honor.

Q. You were used as the channel for getting them into the Reich Bank?

A. Yes.

Q. So you knew that that transaction was going on?

A. Yes. I did.

Q. And you knew where the property came from?

A. Yes. I knew that they came from Auschwitz and Lublin.

Q. Did you see the report of the total amount of property taken from the East?

A. Yes, I saw that report, yes.

Q. Exhibit 489 (*NO-062, Pros. Ex. 489*)?

A. Yes.

Q. There were four and one-half million Reich marks in bank notes?

A. Yes.

Q. Do you see that?

A. Yes, yes.

Q. There were a million and three-quarter Reich marks in coins and currency?

A. Yes.

Q. And there were thirty-six million and more in jewels and other valuables?

A. Yes.

Q. No, forty-three million.

A. Yes.

Q. And nearly nine million in precious metals?

A. Yes.

Q. Where did you think that all came from?

A. Your Honor, this did not arise as a delivery in one single transaction or transfer.

Q. Oh no, I know that.

A. The set-up here, however, was that I received those lists after the action was completed.

Q. All right. When you did get the list of the grand total, where did you think those millions of marks came from?

A. When I got the report then I could account with some sort

of an idea that might have had something to do with the extermination of the Jews.

Q. Well, you had a good idea, not some sort of an idea; you knew exactly where it came from, didn't you?

A. I did not know against whom it was directed, however, I could imagine that it was in connection with the extermination of the Jews. That was clear to me.

Q. You knew it was not a present from somebody?

A. Yes. I knew that.

Q. You knew it was taken away from somebody?

A. Yes. I knew that, too.

Q. And you suspected it was the Jews?

A. Yes.

EXTRACTS FROM TESTIMONY OF DEFENDANT GEORG LOERNER *
DIRECT EXAMINATION

* * * * *

DR. HAENSEL (counsel for defendant Georg Loerner): * * *
We shall now turn to the WVHA. When did you join that office?

DEFENDANT GEORG LOERNER: When it was established on 1 February 1942.

Q. What, speaking quite generally, was the main field of task of the WVHA?

A. The WVHA was the highest administrative authority of the Waffen SS and to a lesser degree of the Allgemeine SS.

Q. Did you, as far as the tasks of that office were concerned, have anything to do with the confiscation of Jewish property in any sense of the word?

A. Good Lord, no, in no sense of the word. We did not know a thing about this problem.

Q. Did the office ever control and supervise property which came from Jewish possessions?

A. Yes. Once through the order by the Reich Leader, the purely economic side of the Reinhardt Action.

Q. Where, otherwise, did the money come from which the WVHA administered?

A. The money came from the Reich and to a lesser degree from the Allgemeine SS and the Party.

Q. Were these large sums?

A. Oh, yes. They grew from year to year as the Waffen SS grew, and the sums became very considerable.

Q. Do you still recall the Reinhardt Action which has been

* Complete testimony is recorded in mimeographed transcript, 17-20 June, 4 September 1947; pp. 2916-3151 and 7423-7424. See also extracts from testimony of Georg Loerner on pp. 334-345, 558-555, 805-808.

mentioned so frequently here? What was the highest sum which we should concern ourselves with here?

A. I did not know that at the time, but from the documents it becomes clear that it amounted to about 150 or 200 million marks.

Q. How high do you think the Jewish property was, such as could be administered in Germany?

A. I did not know that at the time but I heard here that that should amount to about seven billions.

Q. That would be a proportion of about 1 to 17, would it not?

A. Yes.

Q. Among the documents submitted by the prosecution there is a document in volume 18 on page 182 of the German text and 175 of the English text, NO-725, Prosecution Exhibit 481. This is an order by the chief of the SS WVHA, dated 9 December 1943. Can you give us your brief comments on this, Witness?

A. How I read that order was that the SS, as far as it had anything to do with these things at all, was to transfer and hand over these values to the Reich immediately. That was the impression which I gained at the time.

Q. You wish to say, Witness, in order to sum up briefly, that the administration of Jewish property was not up to the WVHA?

A. No. It was not.

Q. But you were concerned with textiles, were you not?

A. Yes. That was part of my duties, to evaluate textiles.

* * * * *

Q. If we wanted to have a title for [office group or division] B, it would be the much-used term "troop administration." Do you think that is correct?

A. That designation is not really correct. It came from Himmler's fondness for the word "administration," which we always came across within our organization. A much better designation for office group B would have been "supply organization," because the main task of office group B was the supply of goods.

Q. Now, what did you supply? Let us talk about the various offices into which your office group B was subdivided at the various periods of time.

A. Office group B consisted of these offices: B I, food; B II, clothing; B III, quarters and accommodation; B IV, war materials and deliveries; and B V, transportation. Office B IV was dissolved on 1 January 1944 as its tasks had completely vanished inasmuch as the highest agencies had taken over all supply problems. The remaining tasks were allocated to offices B I and II. Office B V was established only on 1 October 1942.

Q. Now, let us talk about B I. What was B I? What were its tasks?

A. B I had the task of looking after the feeding of the Waffen SS and the regular police units in the Reich. The feeding of units at the front was done by the army organization.

Q. In other words, you mean to put the food at the disposal of the Waffen SS—furnish the Waffen SS with the food. Did you, in that function, have the title, "Highest Food Chief?"

A. No. That title was never used by me, nor did I come across it throughout my service with the Waffen SS. To be justified in having that title, I would have had to have these tasks also; first, to feed all the units at the front; second, to feed all concentration camp inmates; third, to supervise that administration of food; fourth, the food inspector would have had to be under me.

Q. What offices were under your jurisdiction? B I is a ministerial agency, is it not? Now, how did that connect up with the provincial authorities?

A. Under B I there were, in order to help it carry out its task, the main economy storage camps [Hauptwirtschaftslager] which were under the district concerned and they had two to four troop warehouses [Truppenwirtschaftslager]. B I was also in charge of two or three training kitchens.

Q. When you say warehouses for troops, do you mean, for instance in your letters, it is called HWL and TWL? That was the official abbreviation. I would suggest that we better avoid these mathematical and algebraic abbreviations in order to have everything quite clear.

What were the practical tasks which these warehouses had?

A. These warehouses had the task to call in the supplies from the firms, store them, and deliver to the troops in accordance with the orders from the OKH.

Q. That, one might call in the army a food supply office?

A. Yes.

Q. And what any army in the whole world does in the same manner?

A. Yes, quite.

Q. Would you perhaps give us the figure; how many main warehouses and troop warehouses there were?

A. We had six main warehouses and roughly 20 or 25 troop warehouses which, of course, varied from time to time.

* * * * *

Q. To complete this part of the interrogation I shall now turn to another complex which has appeared in this trial as the Reinhardt Action and in order that my question shall be understood I wish to state that I use this term only in order to enable the Court and other members of this trial to know what drawer in their mind they had to open, because in the period of time in

which I am speaking now, no Reinhardt Action existed for Georg Loerner, no action at all, and certainly not one which was connected with the dead Gestapo chief Reinhard Heydrich. Tell me, Witness, did you have anything to do with second-hand material at any time? By that I mean dealings with old iron, old clothes, and such items?

A. No. I never did that.

Q. Is it now known to you that that sort of second-hand trade played an important part in the national economy after the First World War?

A. Yes. I know that.

Q. Is that an occupation which you like?

A. No. That field was regarded in commercial circles rather coldly.

Q. But fate forced you to have some dealings in that part of trade. How did that come about? For instance in the middle of 1942?

A. Yes. It all happened in 1942, the beginning or the middle. At that time the raw material shortages became extremely acute in that field. We made a report to Himmler for the first time. Himmler replied that he knew of course, about the shortages and that he was in a position to help. He told us that in Lublin he had a large collecting center of materials from the East which he had established which was under Globocnik, SS and Police Leader at Lublin; and he told Globocnik to transfer certain raw materials to us.

Q. You told us now that between Himmler and yourself there was Pohl, and that nobody would be allowed to interfere in that relationship.

A. When I say we reported to Himmler, I mean of course that I sent the report and Pohl passed it on to Himmler; and in his reply, Himmler addressed himself to Pohl and not to me.

Q. So, therefore, what you heard as Himmler's opinion you heard through Pohl?

A. Yes.

Q. What did Pohl tell you; what he had done with the agencies and what he had negotiated—

THE INTERPRETER: There is an awful noise, your Honor, and I can't hear.

PRESIDING JUDGE TOMS: Will you suspend just a minute?

DR. HAENSEL: I asked you to describe to us what Pohl had told you about his negotiations with other agencies of Himmler about the materials.

DEFENDANT GEORG LOERNER: Pohl told me that on Himmler's order he had talked to Reich Minister Funk, and the latter he

said was ready to let us have more raw materials in the textile field provided that we would submit to the Reich Ministry of Economics the evaluation of these textiles as promised to us. Funk's agency had been informed and we only needed to start the negotiations.

Q. Now, Globocnik's name had been mentioned?

A. Yes.

Q. Why is it that Himmler did not simply order Globocnik to send the second-hand materials direct to Funk or the Reich Ministry of Economics? Why were you interpolated?

A. Of course, there I believe that Globocnik would not have carried out the deliveries because it was his ambition to keep all the material in Lublin in order to have it used there. The second reason of Himmler was to use us, so that through us we would be granted the increased raw material requested by the Reich Ministry of Economics which Globocnik, as SS Police Leader, would never have been granted.

Q. How did you think that this second-hand material which you received in order to increase your contingents—where would they have been stored? Where would there have been space to store them?

A. What I imagined at the time was that in Lublin, or that Lublin, itself would have a large warehouse for all second-hand material from the occupied eastern territories, both for German material from the campaigns and for confiscated material—so-called black market wares.

Q. Will you please describe to us how it actually came in and was passed on?

A. The whole business started somewhat slowly and from the beginning we felt in the case of Globocnik a secret resistance against any collaboration with the WVHA. What happened was that Lublin, usually by telephone or teletype, reported to us when new wagonloads of material were at their disposal. My official negotiated with the Reich Minister of Economics and that Ministry told us what firm would use the material and where the transports were to go; and by agreement with the management of the Reich railways, railway wagons were put at our disposal.

These terms and the dates on the wagons supposed to be at our disposal were reported to Lublin by teletype—and that was the end of that for the time being. These were purely intermediary persons.

Q. The prosecution has submitted—and I am sure everybody will still remember it—a document signed by Frank of 26 September 1942. It is in volume 18, page 85 of the English version,

and page 108 in the German book, NO-724, Prosecution Exhibit 472. Have you got the document?

A. Yes.

Q. Will you please tell us what conclusions you reached from the first line of this document, as far as our case here [is] concerned?

A. This order was made in six copies. I did not receive a copy of the order, but it was sent to me for informative reasons and I had to pass it on. From this order, I only memorized what concerned office group [division] B, and I did not bother about the other regulations.

Q. This order is addressed to the SS Garrison Administration in Lublin. Were you ever in Lublin?

A. Yes. I was there twice, once in 1940 and on another occasion in the autumn of 1941. On both occasions I visited the group administration there.

Q. What was the picture you had of Lublin from that period of time?

A. The picture I had of Lublin was that of a large SS garrison. Lublin and its surroundings was full of SS troops, and I also had the impression that it was a large industrial center, in the extension of which Globocnik was extremely interested. It was also a large camp for any amount of supply goods for the Eastern front, and for any type of goods and wares from the Eastern territories.

Q. In September 1942—this is the period we are talking about now—did you have conception of the size of the territory east of Lublin at that time which was occupied?

A. Yes. These vast areas I saw myself once, when in the summer of 1942 I went to Kiev and Dnepropetrovsk.

Q. Apart from this written order, did you have any secret official orders additionally from Pohl, or through Himmler, or someone else?

A. No. In no way at all.

Q. You told us now that you looked at this order only from the point of view of office group B, and you memorized it?

A. Yes, that is true. It concerned the use to be made of the textiles.

Q. Now, how did these things reach you? Or how was it that you heard about delivery [of] the textiles goods?

A. These loads usually went in three or five wagons without our seeing them. They went direct to the firms which had been named by the Ministry of Economics. Lublin also reported that at Himmler's orders it had sent things to the Eastern German Agency, or the concentration camp, or any other agency named by Himmler. On some occasions he ordered the WVHA to have

special supplies sent to the Eastern German office. I recall for instance, that 10,000 pieces of clothing were to be sent to the Racial Germans on the Black Sea, and many other orders of this nature, for instance, a delivery to a certain construction scheme in the East. These deliveries were made from Lublin and we only kept the books.

Q. Who among your people worked on the technical side of the deliveries, which were the result of this order?

A. I told Hauptsturmfuehrer Kersten of B IV to do this. He usually negotiated with the OKH and the Reich Ministry of Economics about raw materials.

Q. We have attempted to get hold of Kersten, but I couldn't find him. You don't know where he might be?

A. No. All I know is that in the end he was in the south.

Q. Did you give Kersten a free hand to carry out your order?

A. Obviously he had to work on the technical side of it. I couldn't be bothered with the technical details myself.

Q. In the order it says, for instance, that prices of this second-hand material had to be fixed. Who fixed these standard prices?

A. Standard prices for textiles were fixed by the Reich Ministry of Economics.

Q. At what intervals of time did Kersten report to you about the deliveries?

A. I am unable to give you the details there. Probably every 4 or 6 weeks he came to see me and told me how things stood.

Q. Apart from the textiles, there were leather goods and furs. How were they handled?

A. All these things were handled in accordance with orders issued by the Reich Minister of Economics. On one occasion we received a few wagons of shoes which had come from the Reich Ministry of Economics and we were to use them to make shoes for inmates. The furs went in accordance with the orders of the Reich Ministry of Economics to the Association of Furriers. A few sheepskins were sent by the Reich Ministry of Economics to us in order to have winter clothing made.

Q. How was the accounting done of these things which Kersten had handled?

A. The firms which received goods in accordance with the orders by the Reich Ministry of Economics were given bills by us with the prices as fixed by the Reich Ministry of Economics. The firms paid these bills by transmitting money to the treasury of WVHA. There they were booked as Reich income.

Q. Under whom were these Lublin camps? Who was in charge?

A. These camps were exclusively under Globocnik.

Q. You knew this man Globocnik, did you not? What was his reputation?

A. I did, indeed. I saw him perhaps four times and talked to him. His reputation was that he was Himmler's favorite and acted accordingly. He had the reputation of being extremely ambitious.

Q. And you hinted already that Globocnik did not like having the material collected by him sent to the Reich Ministry of Economics. Do you believe that if the highest agency of the WVHA had not been interpolated in this the Reich Ministry of Economics would have been able to cope with Globocnik?

A. I don't believe that they could have done so. Globocnik had the ambition of using material in his own enterprises and to make Lublin into an extremely large industrial center.

Q. Do I understand you to say that this artificial interpolation of the WVHA into the second-hand material business in Lublin with the German individual firms had two reasons: (1) Globocnik would obey only a very high agency and (2) That you received an increased allocation of raw materials in this manner? How did Kersten handle these things—from Lublin, or did it go through some camp or some warehouse?

A. These deliveries came direct from Lublin to the warehouse appointed by the Reich Minister of Economics without any intermediary stops.

Q. In these reports we find under paragraph *f*, bedding material, blankets, and so forth. Did you assume that the bedding material, for instance, had originated from concentration camp inmates?

A. You probably mean the feathers, not the bedding material.

Q. Where did you think feathers for beds came from. It is even more difficult to understand how feathers for pillows come from concentration camp inmates.

A. These immense quantities of feathers reinforced me in my opinion that these goods came from big warehouses which had been confiscated and I still believe that in this case we were concerned with warehouses and not things taken away from inmates.

Q. This order does not say it concerns Action Reinhardt, but it says it concerns the use of property on the occasion of the resettlement and deportation of Jews. What did you understand by resettlement and deportation?

A. At that time it was widely known that the Jews were to be deported to the East. How I pictured it was that in accordance with the various laws of the Reich superfluous properties and large warehouses and hoards were to be confiscated, the possession of which was blamed on the Jews by our propaganda.

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EXTRACTS FROM TESTIMONY OF DEFENDANT AUGUST FRANK *

DIRECT EXAMINATION

* * * * *

DR. RAUSCHENBACH (counsel for defendant Frank): Witness, before the recess I asked you why you were employed as a simple SS man although you had left the regular police as an officer, and you told me the reason had been because members of your family had intermarried with Jews. Will you please explain the details to me?

DEFENDANT FRANK: The Court asked me before what the fate of my brother-in-law had been. Let me tell you this in three brief sentences:

I knew my brother-in-law, Philipp Rosenberger, since 1931, that is to say, from a time when I had not yet had any contact with the SS. In the summer of 1932, my sister—to whom I was like a father, as I explained before—told me she wished to marry Philipp Rosenberger. I knew Philipp as a very industrious and decent merchant whose family had, for four generations, been living in Dresden, and I agreed to the marriage. I continued my contact with him although it decreased during 1935 and 1936, and I admit that I approached my sister with the idea that she should obtain a divorce from her husband. She told me at the time, "No. I shared the good years with my husband, and therefore I wish to share the less good years with him too."

My brother-in-law and my sister lived in Dresden without interference up to 1939. He was employed in his father's firm. Jewish commercial people had very few prospects of doing good business; therefore, my brother-in-law approached me to help him to emigrate. Once again I admit frankly that I tried to influence my sister to obtain a divorce and not to share with her husband the uncertain fate of a refugee. However, my sister persisted with her decision and there was nothing I could do. All I did was to help them with their emigration, and the result was that they emigrated to Milan without being interfered with. From that time onward I heard very little about them.

My sister told me that her husband had wanted to go to Southern Italy from Milan in order to build up a new life for

* Complete testimony is recorded in mimeographed transcript, 5, 6, 9, and 10 June 1947, pp. 2231-2487 and 7410-7417.

himself there. Should he not succeed in doing so, he would emigrate to Palestine, where she would follow him later on.

To sum this up from the very scarce news I had from them, my sister heard nothing from her husband for six months and then she received a brief communication that her husband had been arrested by the Italian Secret Police and been put into a camp. I believe, on an island. From that day onwards my sister heard no more from her husband, nor do I believe that she has any news of him now. She is still waiting to hear, but I don't believe there is much hope. Whether my brother-in-law perished in that camp, or whether he was lost en route to Palestine, I am unable to say.

When I escaped in 1945 I wanted to join my sister in Italy in order to hide with her, but I was prevented from doing so for a variety of reasons. Meanwhile, however, I had re-established contact with my sister and, without my asking her to do so, she gave me an affidavit from the Italian Police, where she confirms more or less what I have told the Court just now.

JUDGE MUSMANNO: Where is your sister now?

DEFENDANT FRANK: In Bressana, Italy, together with her child. She is well off; she is employed in a cinema. Her little daughter speaks Italian as well as she speaks German, and she is an interpreter with the British Military Government.

Q. Did you have any trouble during the time that you were a major general in the SS and deputy chief of WVHA, in reconciling your present position, which was committed to persecution, and in some ways, whether you did or did not actively participate in it, to the extermination of the Jews, and the fact that one of this despised race was regarded by you with such high favor that you took him into the bosom of your family and had him marry your sister whom you loved as a child?

A. That question is justified. The Reich Leader referred only once to the fact that I had Jewish relatives. That was at the beginning of the war when I was a brigadier general. At that time, as I shall explain later on, I was purely a soldier, and I said at the time that I had lost contact with my sister, that my sister had emigrated, and that was as far as the Reich Leader was concerned. As far as the other matters are concerned, your Honor, my personal attitude about the question of extermination, might I ask to be allowed to give my answer later on when we reach the document by which I am incriminated in that respect?

JUDGE MUSMANNO: Very well.

DR. RAUSCHENBACH: Did you at that time in 1939, when you were an SS leader, did you not endanger your position when you sponsored the emigration of your brother-in-law?

DEFENDANT FRANK: I think endangering is saying too much. The only thing I had to be afraid of was that the Reich Leader would find out I didn't keep my promise which was to break off all contact with my sister. The emigration as such, I sponsored through a method which nobody could find out about. I used intermediary persons for the purpose.

* * * * *

Q. * * * Now I shall proceed to another document which appears to be rather important for us, that is to say, it is Document NO-724, Prosecution Exhibit 472. It is in document book 18 on page 108 of the German document book and on page 85 of the English document book. Witness, in those over 500 documents that were introduced by the prosecution, there were three documents which were signed by you. Two of those documents deal with the so-called Reinhardt Action. One of these documents is this particular one you have before you now. What can you tell me about the history of this document? You can go into detail in this connection. It is, as you can notice from the prosecution's intonation about this document, one of the most important documents in this trial for you.

A. Yes. The serious charge of the prosecution that the accountants of Amtsgruppe A were participants in the murder of hundreds of people will probably entail me to make a detailed description about the origin of this document. I believe I do not have to go into detail about the history of the extermination of the Jews itself. It must have been around the year of 1941 when at a time in the brains of Hitler and Himmler the plan for the extermination of the Jews must have originated and the executing tools became the following persons: the Chief of the Gestapo Heydrich, as well as Eichmann as expert in Jewish affairs, and Reich Leader Bouhler together with the Criminal Commissioner Wirth, the former Gauleiter and SS and Police Leader Globocnik, and Hoess. These were the persons who carried out this plan of extermination; without any doubt they took care of all measures • to grant secrecy that could possibly be expected—

Q. Witness, may I interrupt you at this point and ask you why don't you tell the Tribunal beforehand how the confiscation of the Jewish property came about, and who actually confiscated their property?

A. I believe that one has to go into detail, particularly about that. I didn't want to state it at this point. However, as you are asking this question, I shall, on the basis of an example, tell you about the confiscation of the Jewish property and go into detail. Again, one has to differentiate between two periods of time. That is the period of time before 1 October 1942 and the period of

time after that date. I shall give an example from life. A German Jew was arrested in 1941 by the Gestapo and sent to a concentration camp. Now what happens with his property? What the Jew is carrying along with him when he was sent to a concentration camp, in other words, his own personal property, his watch, his wallet, all his personal belongings, his suitcases and so on, were taken into a special storeroom for the belongings. I do not wish to discuss the question at the present moment what happened to those things in case the Jew should have died. I shall deal with that particular question now, namely, what on the other hand happened with all those valuables and fortunes which that same citizen and Jew left behind at home; for instance, his house, his furniture, his car, his business, perhaps his stock or his estate, his bank account, the following regulation had been used there: By legal Reich regulations under the Four Year Plan of Hermann Goering, and also by ordinance of the Finance Minister, a series of decrees had been released in a form of a law which ordered that all those things which I have just mentioned—all those items were to be confiscated by the competent country finance presidents. In other words, the whole thing occurred in the following manner: The Gestapo sent to the provincial finance president a report that the owner of the house at Koenigstrasse 10, a Jew, was arrested, and sent to a concentration camp as a public enemy. The property as such, thus was confiscated. Now, what happened is that the provincial finance president—one of the agency of the Finance Ministry—assigned a special trustee for that property and then sold that property, that is to say, everything that was there, the house if I may use the same examples, the car, the business, and the stock and he put the money which he received for that into the Reich account. As to all the values that were still left in the house, the provincial finance president also confiscated those, and he sold them to the pawn shops which existed in his district.

Q. In other words, neither the WVHA nor the SS confiscated that part of the Jewish property which had not been taken into the concentration camps?

A. Up until October 1942, as I mentioned before, the administration of the SS had nothing to do whatsoever with the entire Jewish property or fortune. I want to discuss the case now for example, that this particular Jew that I mentioned before, had died in the concentration camp. For this case, on 3 April 1941, the RSHA issued an order which I would like to quote, because it is highly important.

Q. What document is it, Witness?

A. It is Document NO-1235, Prosecution Exhibit 148-b which

is in document book 5, on page 150 of the English document book. It is peculiar that this document consists of two parts: that is to say, the first part is an order of the inspector of concentration camps, re delivery of gold and valuables (valuables of Jewish inmates). The addition which I spoke about before, that is, the decree issued by the RSHA to which the inspector refers, was not in the German document book, it was only added later on. In this important order to which the Inspector of Concentration Camps refers—and unless I forget, it was at a time when Amtsgruppe D was not incorporated with the WVHA—the following is stated, and I shall quote:

“A release of valuables which have been taken into custody to Jews of foreign citizenship who are in concentration camps, or to members of families of Jews who had died in concentration camps, will not be considered. The objects, as far as they belong to citizens of the former Polish State—based on the decree concerning the property of former citizens of the former Polish State, dated 17 September 1940, Reich Law Gazette, page 1270—are to be reported to the Main Trustee Office, Berlin, Potsdam Street 28. Otherwise, if it was a German Jew, the competent government president on the basis of the Seizure Law of 26 May 1933 and July 1933 (Reich Law Gazette, pages 293 and 479), had to confiscate this property.”

In the latter case, however, it had to be established first whether the persons were enemies to the country and the nation according to the law of 4 July 1933, and an accurate list had to be added to the application. All the items belonging to the owner and all the valuables which will be confiscated, had to be stated together [with] his name and his last place of residence.

From that decree it can be seen that the property that was being kept for these people in the concentration camp property room also had to be transferred to the Chief Finance President.

Q. The Chief Finance President—is that an office of the SS or of the WVHA?

A. No. That is an agency of the Reich Finance Ministry. It would be a very interesting matter, particularly for us, in the interest of the entire recapitulation of this sad chapter, as to what the Reich Finance Ministry received in this manner in its cash boxes or steel cabinets. I read once, in a special paper, that the Jewish property in Germany, shortly before the beginning of the war, amounted from five to six billion gold marks, I guess and I believe I can assert that at least 85 percent of this immense amount of money was actually credited to the Reich Finance Ministry. I don't include in this the fortune of those Jews which directly or indirectly also was received by the Reich Finance

Ministry, from those countries and territories occupied by Germany.

I would like to mention another example which will stress this fact. If a Jew emigrated before the war, or even during the war, then that Jewish fortune—excuse me, I shall give you another example in order to illustrate the whole thing better. Let's say a Jew fled into Switzerland, in 1939, and he did not emigrate officially. He tried to take his fortune along into Switzerland. In many, many cases that Jew, taken as an example, was captured or caught by the investigating agencies of the German Reich Finance office. His property and fortune was confiscated and the whole property and fortune of that particular Jew which he left behind automatically became the property of the provincial finance president. In other words, this property also became the property of the Reich Finance Ministry.

I shall now come to the period of time after 1 October 1942. I would not like to state prematurely but only within the framework of my entire statements, what happened after 1 October 1942. However, I can say that the fortune that a Jew had when he was sent to a concentration camp—and I shall repeat that, after October 1942—also became the property of the Reich Finance Ministry.

Q. Witness, when was it—let me put it this way. So far you have been speaking about the Reich Finance Minister. When was it that the WVHA of the SS was used for the first time in evaluating confiscated Jewish property?

A. That occurred with the Document NO-724, which I signed. I wanted to mention that just now. That was the beginning of the confiscations of property ordered by the Reich Leader in the concentration camp itself; whereas, Globocnik was an exception, he went further than that. I shall tell you that in connection with my statements later. All I wish to say now in advance is that through this document which I signed, and for which I now have to take the responsibility, there were three final stations for this fortune. Those were—

First, for the cash in the cash boxes, the treasuries of the concentration camps or the treasuries of the WVHA, respectively.

Second, for the gold and the jewelry, the final station was the Reich Bank—shall we say the vaults of the Reich Bank.

Third, for the watches and fountain pens, as we all know, the workshops of Amtsgruppe D in Oranienburg.

I believe by that I have explained what part the administration of the SS played from 1 October 1942 in the evaluation and use of the entire Jewish property for the benefit of the Reich.

* * * * *

Q. * * * Now, when was it that the WVHA for the first time made use of Jewish property?

A. That was in July 1942. That was when the Chief of the WVHA, Pohl, had a conference with the Reich Bank Vice President Puhl. This conference was preceded by another conference between the Reich Leader Himmler and the Reich Bank President, Funk* who at the same time was Reich Economy Minister. Probably, at the same time as can be seen from the documents, there was a conference between Himmler [Schwerin von] Krosigk, the Reich Finance Minister. It will be possible for me, to prove on the basis of the documents, that the WVHA a very short while before that, had not been included in the affair at all, and know nothing at all about it.

Q. You just said that they know nothing about it. Do you mean by this the term "Reinhardt Action"? Or do you mean the confiscation of Jewish property, generally speaking?

A. I would like to say as of now in answering this question the following: When the Action Reinhardt is mentioned, then at that particular moment when I was in the WVHA, it could never have been the extermination action. I would like to point out clearly that the Reinhardt Action, the term as such, was always known to the WVHA as an economic-use action, an action where the Jewish property could be utilized. It was approximately 6 weeks after the conference between Pohl and Puhl when the WVHA received a draft of an order from Lublin which bore Himmler's initials and which was the authentic basis for Document NO-724.

Before I speak about this document in detail I would like to state that in this draft of the order not one single word was contained of the killing or of an extermination, or any other kind of Action Reinhardt. That word did not appear at all in the draft of the order and at that time it was not even known in the WVHA.

Q. Witness, in that decree which you signed, that is, Document NO-724, it is stated that personal property for instance, watches, would also be sent to the utilization department. Now, I cannot believe you without any further difficulty, that from that decree which you signed yourself you could not understand or know anything about a killing or an extermination. It seems almost a matter of course that such personal belongings could not have been taken away from people who were still alive. What do you wish to say about that?

A. If I am to talk about the question of the watches, then I have to say that it was surely unusual that a military administration dealt with the collection of watches. However, it is not abso-

* Defendant before the International Military Tribunal. See Trial of Major War Criminals, *op. cit. supra*, vols. I-XLII.

lutely necessary that a watch must originate from a man who is dead. At this moment I do not wish to speak about the question of the property, and what have you. It is not necessary that a man is killed first before his watch can be taken from him. I believe that you could find these examples in all the armies of the world. I believe that, as long as there are wars, as long as there are prisoners, and as long as there are watches in the world these watches will be stolen. The same thing applied to us also when there were prisoners of war. I do not think it very tragic in my own case. However, the charge that glasses and gold from the teeth could not originate from men who were alive, and I knew that. I was aware of that. But it was also clear to me that in the camp, or in a series of camps where 50 or 60 thousand, or more people are moving about there will be death cases just like in any other city. It is also clear to me that in the East, where they had infections of typhus, the death rate was higher than in normal times. Apart from that there was a war going on and one does not really have to use percentages of death rates. Let us just use normal times. I want to say for instance three per thousand, as far as I know. Nuernberg has 1.8 per thousand as the death rate per month. Now, if I use such a figure and use that as a basis, then there are of course a couple of thousands of deceased persons per year.

On this occasion I wish to state clearly that Himmler and Globocnik were real masters of cunning and deception. Today it is absolutely clear to me why in this particular draft of the order the property of the living and of the persons who died normal deaths, and of those who were killed, were mixed up with that property coming from stocks and workshops. That was the most cunning deception that can be done, and I became a victim of that also.

One has to understand further that there was another camouflage, that for instance, the money, the cash, went in the treasuries of the Waffen SS, and therefore to the Reich treasury; the gold and jewels went to the Reich Bank, and they were stored [there] for months—if not years—until they were examined, counted, and utilized. The watches were sent to Oranienburg, the eyeglasses were sent to the Medical Inspectorate; the various things like towels, suitcases, rucksacks were sent to the Volksdeutsche Mittelstelle. Furthermore, napkins and towels were sent to the soldiers. Furs were sent to Ravensbrueck; suits and clothes to the Reich Economy Ministry. There were ten, or perhaps a dozen offices where these things were sent. I ask, further, not to forget that it was the fourth year of the war at the time. I wish to say that today in this clear Tribunal, with a distance behind me

of 4 or 5 years, one cannot possibly judge the scale of the criticisms, and I would appreciate it if this Tribunal would permit me to take up their time and bring you back to that particular time when I signed the document; go back 4 or 5 years because only thus will it be possible to explain to you, and for you to understand the situation which I was in at the time.

Q. Witness, in order to shorten, to abbreviate, and in order not to use up too much of the time of this Tribunal with details which are not important, I would appreciate it if you could tell us as little as possible about your personal attitude and your personal activity at the time. On the other hand, however, it is important and we have plenty of time for that, to point out and to stress and to explain in detail the conditions which prevailed at the time when this order was issued around in your surroundings. In order to answer my question now, what do you know about a Reinhardt Action before you signed that particular decree. Would you tell us about that in detail?

A. At that time when I signed this Document, NO-724, Germany was in the fourth year of the war. I myself was chief of Amtsgruppe A, and thus as Quartermaster General [Generalintendant] in the Waffen SS, had to take care of 300,000 soldiers, roughly. A tremendous amount of money had to be distributed in dozens and hundreds of channels; thousands of wishes from the army had to be satisfied; now administrative officers had to be trained and the groups became larger from day to day. It was a difficult task which was almost impossible to cope with, and it kept us, both myself and my few colleagues, busy day and night. It was not thus that the German Army for instance, like the American Army had plenty of everything and had a peaceful Hinterland [zone behind front].

Back in 1942 we already had to start improvising. Everywhere we had to economize. We were entering the fourth winter of the war. At the time, I had hardly anything to do with the concentration camps. It was a time during which we, that is to say, my comrades and myself who had no knowledge of the tragedy of Majdanek and Auschwitz—what did we know about the cruelties and tortures behind the Gestapo walls, the filthy deeds which the sadistic Unterfuehrer committed, and the excesses committed by the commandants. I should only mention SS Oberfuehrer Loritz. He was one of the first concentration camp commandants. Every decent SS man and Leader despised this man and he had to be transferred by the Reich Leader under that pressure and in spite of that he was reinstated of his rights by Himmler after that and to our great astonishment. We were said, we men from Amtsgruppe A—our people were speaking about it—that we were

also guilty and that we wanted to pass the buck to those already dead. I ask this Tribunal, those dead men, weren't they really responsible—men like Himmler, Gluecks, Lolling, Grawitz, Globocnik, and Loritz? All these men committed suicide and that could only be under the pressure of their guilt. If I myself had wanted to leave Germany, I don't think it would have been difficult for me to obtain a passport as chief of the passport section and to go abroad, if I was under the impression that I had such a guilt of blood on me. Eicke, Heydrich, Hoess, and Kammler are dead. I believe that I can assert—

JUDGE MUSMANNO: Hoess did not commit suicide.

DEFENDANT FRANK: No. He was executed. Koch also was executed, what I wish to say by that is that these men are dead and I believe that I can say that if this dozen men would be sitting here in the defendants' dock today, then the bookkeepers of Amtsgruppe A would not be sitting in the first row of the defendants' dock.

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JUDGE PHILLIPS: How did you think that these people were laborers; when under "E" in your order you say women's clothing and women's underwear, including footwear; children's clothing, and children's underwear, including footwear, have to be handed over?

DEFENDANT FRANK: Yes. I believe that would come from camps, and it must have come from camps because Globocnik himself reports that he had sixty-five thousand pairs of shoes manufactured and over one million and a half of clothes; in other words those things had to be manufactured; they must have been manufactured; and they were manufactured for those resettled persons.

Q. I am not talking about manufacturers; I am talking about turning over goods that they already have, and what you have to do with it in the future.

A. In that accompanying letter it was stated expressly that it was property of the persons who were in the camps which was to be taken away from them due to lack of space; then, there were stocks of goods, so I could not possibly assume that the people had been killed before those things were taken away from them. It is quite clear, that if today—it would not be different here in Germany either—people are sent to a camp and they take along two, three, four, or five suitcases, they cannot possibly carry those things around with them, and that only a certain amount can be used; a second suit or some underwear for changing.

Q. Well, if that was what you thought, why did you preface your order with this statement: "Property which will in all orders in the future be called goods originating from thefts, receiving of

stolen goods, and hoarded goods." If that was true then, you ordered in all orders in the future about these goods that these goods should be confiscated, did you not?

A. Yes. That was in the order of the Reich Leader and I have stated before that those things mostly originated from camps, and among those there were also certain camps which had been confiscated by the Gestapo agent of Globocnik as black market camps and that is where the concept probably originates. I do not deny the fact that these people had to give up all those additional things, that is, for instance, the skirt or their underwear which they could do without easily, that those things were taken away from them, and that this was a violation of the principles of property; I do not deny that.

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CROSS-EXAMINATION

MR. ROBBINS: Witness, after you heard Himmler's speech in Poznan, you had no doubt that the policy of the Reich and the policy of the SS were committed to the extermination of the Jews, did you?

DEFENDANT FRANK: Yes, quite.

JUDGE PHILLIPS: Was that in '42 or '43?

MR. ROBBINS: October '43, your Honor.

You say you did not have any doubt?

DEFENDANT FRANK: It was in October 1943 when I heard Himmler's speech at Poznan and I heard it as chief of the administration of the police.

Q. And at that time it became clear to you that the policy of the Reich was the extermination of the Jews? I did not quite get your answer?

A. No doubt could be possible anymore after that. As a man of thinking faculties I had to deduce from Himmler's speech what he wanted to say.

Q. Is that the first time you heard about this, his policy?

A. Yes.

Q. Is that the first time that you heard that Jews had been killed in concentration camps?

A. I heard for the first time there, that the German Reich had proclaimed an extermination program against the whole of Jewry, who had associated against Hitler.

Q. That is not quite what I asked you. Had you heard prior to that time that Jews had been killed in concentration camps?

A. No.

Q. Had you heard they had died in concentration camps on a large scale?

A. No. That people died in concentration camps was clear to

me, but not clear in the sense that they would be worked to death, or killed there.

Q. You did not know that the death rate was abnormal or alarmingly high in the concentration camps?

A. I never formed any figures on the number of people killed there.

Q. No. That is not an answer to my question. You did not know that the death rate in concentration camps prior to October 1943 was alarmingly high, abnormally high?

A. No.

Q. Were any of the other defendants in the dock at the speech at Poznan, so far as you know?

A. I don't believe so.

Q. You know that Pohl was there? You heard him say that?

A. Yes, Pohl, yes, of course, that is quite clear. Of course I expected Pohl to be there.

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G. Membership in a Criminal Organization, the SS

I. INTRODUCTION

All the defendants except the defendant Hohberg were charged with membership after 1 September 1939, in the SS, an organization of the Nazi Party declared to be criminal by the International Military Tribunal and by Control Council Law No. 10 (par. 26 of the indictment). The principal issues arising from this charge, such as voluntary or involuntary membership and the extent of knowledge of the criminal character of the SS, were generally similar to those arising from like charges in other cases. The material reproduced in this section, appears on pages 764 to 785, and contains extracts from the testimony of only three witnesses: the defendant Vogt, who was acquitted under this charge even though a member of the SS; the defense witness Karl Wolff, a former SS general; and Helmut Bickel, a former concentration camp inmate. SS General Wolff held a number of important positions in the SS, including Adjutant and Chief of the Personal Staff of Himmler (1933-1939), Liaison Officer for the Waffen SS to Hitler (1939-1943) and Higher SS and Police Leader in Italy (after September 1943).

Testimony

	Page
Extract from testimony of defendant Vogt.....	757
Extracts from testimony of defense witness SS General Karl Wolff...	768
Extract from testimony of defense witness Bickel.....	784

EXTRACT FROM TESTIMONY OF DEFENDANT VOGT *

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RE-CROSS EXAMINATION

MR. ROBBINS: Witness, you say in your affidavit, which is in document book 1, Document NO-1567, Prosecution Exhibit 8, that you were taken into the Party on 1 April 1938, and according to my notes you told us today that you were taken into the Party in 1937. Suppose you tell us now when you really were taken into the Party.

DEFENDANT VOGT: I do not remember the date exactly; I do not know.

Q. Well, it was a long way from 1937, wasn't it?

A. From April 1937 I was on leave from my office, and then I was not a Party member.

Q. If I tell you that the prosecution has in its possession your curriculum vitae in your own handwriting, which is part of your 201 file, your personal records, with the SS, will that refresh your memory?

A. Yes. I don't know it by heart; it could, of course.

Q. Suppose I tell you that you say in that record, in your own handwriting, that you joined the Party in April 1920; and that in 1921 you organized a Party group in Deggendorf. Does that help your recollection any?

A. Mr. Prosecutor, that was no organization of the Party. At that time I was a member of an organization called "Bund Bayern und Reich," and was with the "Voelkische Block." That was called the beginning of a party at that time. I myself came from the army and I joined the home guard and took part—I did take part in general revolutionary movements only insofar as others took part in it, but that was not a party in the ordinary sense of the word.

Q. You don't deny that you took credit in your curriculum vitae for joining the Party in 1920 and for organizing a Party group in 1921, do you?

A. I did not organize a party myself.

Q. I didn't ask you that. I asked you if you denied that you stated in your curriculum vitae that you were a member of the Party in 1920 and that you organized a party group in Deggendorf in 1921. Do you remember that from your curriculum vitae?

A. No. I do not remember that, but Mr. Prosecutor, this matter was organized by Gregor Strasser at that time, who was from Deggendorf.

* Complete testimony is recorded in mimeographed transcript, 13, 16, and 17 June 1947, pp. 2757-2916.

Q. I didn't ask you if you were a member. I asked you if you denied that you took credit for it in your curriculum vitae? Do you now deny that that is in the document in your own handwriting?

A. I cannot say it. I cannot speak about that at all.

Q. All right. Suppose you tell us what this Party organization was, why you joined it, and why it was that you couldn't remember about it when you were asked by your defense counsel?

A. But I did not join the Party then. I would have had a membership card if I had done that.

Q. You don't deny that you joined this Bund which was a predecessor of the Party, do you?

A. At that time it was "Bund Bayern und Reich" and the "Deutschvoelkische Block" under Buschmann.

Q. And it later became the Nazi Party, didn't it?

A. Yes.

Q. All right, let's go on to another point. Perhaps the existence of this curriculum vitae will help your memory some. You told us that you never belonged to the Allgemeine SS. Is your memory any better in that respect now?

A. I was not a member of the General SS, the Allgemeine SS.

Q. Do you deny that you say in your curriculum vitae that you joined the Allgemeine SS on 1 October 1936? Do you remember that in your curriculum vitae?

A. Mr. Prosecutor, I joined the SS to take over a position provided for by the budget. My promotion on 1 October 1936, was not in accordance with the position provided in the budget. I never applied to join the Allgemeine SS.

Q. Well, that's not what you say in your affidavit. You say in your affidavit: "On 1 April 1938 I was transferred to the SS." You don't say anything about '36 in your affidavit.

A. Mr. Prosecutor, it was only 1 April 1938 that I joined. Until then I was an official and on 1 April 1938 I came to this position provided by the budget, and from 1936 I was on leave.

Q. Well, let's just start from the beginning. When did you join the Waffen SS?

A. To this position provided by the budget I came in 1938. To the WVHA, the administration office, I came in 1936. I think I seem to remember that was in October 1936.

Q. Well, you joined the SS in 1936, didn't you, and you were given SS number 277081 in May 1936? Do you remember that?

A. Yes. It was 277081.

Q. It was May 1936?

A. I don't remember the date.

Q. Well, what organization was that? That was the Waffen SS, wasn't it?

A. Yes, Waffen SS, Special Task Troop [Verfuegungstruppe].

Q. Well, what did you mean in your affidavit when you say, "On 1 April 1938 I was transferred to the SS." You were already a member of the SS?

A. At that time I was taken over to a position provided by the budget and before that I was with the Special Task Troop, and I never applied for employment in the General SS. I was a civil servant.

Q. Well, then, when you said in your affidavit you were transferred to the SS in April '38 you didn't mean you were transferred to the SS; you meant you were transferred from one position to another. Is that right?

A. Yes. That is right.

Q. Now, what about the Allgemeine SS? You say in your curriculum vitae in your own handwriting that you joined the Allgemeine SS on October 1936, after having joined the Waffen SS in May 1936. Do you have any recollection about that?

A. Mr. Prosecutor, I have never applied for employment in the General SS because when I was employed in this special task troop, I didn't have to join the General—the Allgemeine SS.

Q. I didn't ask you that. I am just asking you if you ever belonged to the Allgemeine SS?

A. No.

Q. Did you ever make the statement in your curriculum vitae that you belonged to the Allgemeine SS?

A. I do not remember.

Q. Well, are you in the habit of making statements that aren't true in official documents? It looks to me like you could remember something like that.

A. The curriculum vitae is so far back that I cannot remember what I have written in it.

Q. You didn't tell us that you belonged to the SA either, did you? Suppose you give us some details on that. That goes back a long way. Your nonpolitical activities; tell us about your nonpolitical military activities in the SA.

A. I did not join the SA then, but we all became Party members and we were employed in the SA reserve.

Q. What do you mean, you all became Party members? This is way back in 1933, 1 July, when you joined the SA, to help your recollection. Did you join the Party then?

A. No.

Q. Go ahead.

A. The use in the SA reserve was a forced measure, an emer-

gency measure of the civil servants' association who used every civil servant. Therefore, we came to the reserve troop, but that had nothing to do with entering the SA itself. I do not remember—I never wore a uniform and I never bought one.

Q. Well, let me ask you a very simple question. Did you ever belong to the SA?

A. No.

Q. Did you ever make a statement in your curriculum vitae that you did belong to the SA?

A. I do not remember, but I was in the SA reserve three or four times.

Q. You were in the SA reserve?

A. Yes. We were attached to it. I should like to say here, Mr. Prosecutor, I should like to add something here. In the end of 1933 I was operated on. It was a very complicated stomach operation and two-thirds of my stomach was taken away. Before that I had been ill for a very long time. Any activity in the SA would have been impossible at that time. From October 1933 I was in the hospital for 5 months, and for another year I could not indulge in any activities whatever. Therefore, activities in the SA reserve—but a member of the SA itself as I conceived it, I have not been.

Q. Well, when did you leave the SA?

A. Well, I did not feel myself an SA member.

Q. When did you leave the reserve of the SA? You never took any formal steps to sever yourself from that organization, did you?

A. I think that must have been before my joining the SS.

Q. What did you do? Did you resign from your reserve in the SA?

A. Well, it wasn't so that I had a position, but we were used in the SA reserve as far as it was necessary for blocking measures and such like; the name reserve implied that.

Q. Now then, you say you were dismissed in February 1945. That isn't true, is it?

A. The official who was dealing in the pay agency with this matter, Dr. Exner, certified this. My files were dealt with by him, my pension files, and at the beginning of April, I was dismissed finally.

Q. In April?

A. Yes, in April.

Q. That is not in February?

A. But in February the dismissal files came to the office.

Q. When did you take your last order from a superior in the WVHA?

A. That must have been either in the end of March or the beginning of April.

Q. Well, when did you get your last order as an office chief of the WVHA?

A. That I cannot say.

Q. Did you have anything to do with or did you know anything about the destruction of the files of Amtsgruppe A and the other Amtsgruppen in the WVHA?

A. No.

Q. Then this is the first time you have heard that they were destroyed?

A. In the Amtsgruppe A?

Q. Yes, in Amtsgruppe A.

A. I was not in Berlin.

Q. Well, you had files in your office?

A. Yes.

Q. Were they destroyed?

A. My files were left there and came to the SS hospital in Hohenlychen which had an ambulance post there. There were barracks full of files.

Q. And you don't know anything about the destruction of the files for office A IV? You don't know anything about that at all?

A. When we left, the files were handed over. If the files were destroyed, Mr. Prosecutor, that must have been within the framework of the general destroying according to the law, because I had to keep to the regulation of the Reich Auditing Court as how far I could go with the files.

Q. That doesn't answer my question. I asked you if you knew anything at all about the destruction of the files of office A IV. You haven't answered the question. Do you know anything about it, to your own knowledge?

A. Yes. The files were destroyed but not because they should not come into the hands of the enemy but for merely office reasons.

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EXTRACTS FROM TESTIMONY OF DEFENSE WITNESS SS GENERAL
KARL WOLFF *

DIRECT EXAMINATION

DR. SEIDL (counsel for defendant Pohl): Witness, will you give this Tribunal your full name?

WITNESS KARL WOLFF: My name is Karl Wolff. My last name, Wolff, is spelled with a double "f."

* Complete testimony is recorded in mimeographed transcript, 3, 4, and 5 June 1947, pp. 2090-2206.

Q. When and where were you born?

A. I was born on 13 May 1900, in Darmstadt.

Q. What position did you have in the Waffen SS, and what was your last rank you achieved, what were your positions in the entire SS, including the Allgemeine and the Waffen SS?

A. In October 1931, I joined the Allgemeine SS, that is the first SS Standarte in Munich, and that was in an unpaid position as an honorary member. When we took over the power in Bavaria I was assigned as Adjutant to General Ritter von Epp, who was Bavarian prime minister and Reichsstatthalter at that time. In May 1933, the then Reich Leader SS Himmler, called me as an adjutant in a full time position. That is, in other words, I became reactivated, because already during the First World War I had been an active professional officer. From 1933 to 1936 I was being assigned as adjutant and chief adjutant to the Reich Leader SS. From 1936 to 1939, in other words, up until the beginning of the war, I became the chief of his personal staff, and at the outbreak of the war I was assigned to the Fuehrer, Adolf Hitler, as liaison officer for the Waffen SS in his headquarters, where I was active until 18 February 1943. Then I became sick, and that prevailed for approximately 6 months, and on 9 September 1943, as Highest SS and Police Leader, I was sent to Italy. I kept that function until the end of the war, that is May 1945. In addition to that I was assigned to the ex-Duce Mussolini by the Fuehrer as a special expert for police matters.

From 26 July 1944, and until the end of the war I received the additional function of the military commander of Italy with the title Plenipotentiary General for the Armed Forces in Italy.

A week prior to the beginning of the French campaign I was appointed as first general, with the rank of a major general of the Waffen SS. Is that sufficient?

Q. Yes. Witness, how long have you known the former Obergruppenfuehrer Oswald Pohl, who is a defendant in this trial, and under what circumstances was he transferred from the navy into the SS? How did the whole thing occur, how did it develop?

A. I have known Oswald Pohl since January 1934, personally. The Reich Leader SS in 1933 had made the acquaintance of Oswald Pohl, and on account of the excellent recommendations by his naval superiors of that time he wanted to have him in the SS as administrative chief. Pohl at the time had an esteemed position; in other words, a secure position for his life with the navy which entitled him to a pension, whereas the SS in January 1934, was a rather young organization, or shall we say unit, which did not offer any material security, or any financial possibilities of development. The Reich Leader SS in January 1934,

told me, or rather ordered me to get Pohl to Berlin for a conference and to have preliminary discussions with Pohl prior to his conference with respect to the possibilities of development and also to explain to him the task which he was to perform in the SS.

I recall exactly that Pohl at the beginning did not feel like accepting the Reich Leader's SS offer. However, after I had told him the task which he was supposed to carry out in the development of the special task group of the SS, that is, the predecessor of the Waffen SS, and after I told him what the ideal aims would be to serve by joining the SS, he finally agreed. I also recall that at the time he joined with the rank of SS Standartenfuehrer, which was not too high, with the monthly pay of 600 marks. According to the rate at the time it was approximately a little bit more than \$150.00; in other words, not an amount which would force a man to join a criminal organization and to support it in every way. I myself had taken the same chance nine months ago, and that for 450 marks a month with a rank of Hauptsturmfuehrer; in other words, something over \$100.00.

Q. Witness, you testified that Pohl, in January 1934, had joined the SS, that is he was transferred from the navy. That was before the Roehm Putsch which took place in June 1934?

A. Yes.

Q. Did the SS at the time already play an important part in the Third Reich, particularly compared with the SA, which at the time was still very influential?

A. No. The SS, ever since the beginning, was nothing but a selected minority which had been well trained, which amounted to approximately 10 percent of the entire strength of the SA, and never exceeded that 10 percent margin, according to my opinion. The Reich Leader SS, Heinrich Himmler, in January 1934, was personally subordinate to the chief of the SA at the time, Roehm.

Q. Witness, the defendant Oswald Pohl and 16 of his other codefendants, are charged in count four of the indictment of having been members of a criminal organization, namely the SS. In view of the fact that you have known the defendant Oswald Pohl since 1934, and apparently know his entire career within the SS, I would like to ask you now, Witness, which were the tasks and aims of the SS and in what way the defendant Oswald Pohl at the various times was active in the SS?

A. The SS, ever since the beginning, was supposed to be an elite unit, and that not only according to the appearance but also according to their attitude, their character, and also according to its achievements. The SS was to be some sort of a guard, as they were organized by kings, at all times, both in Germany and in other countries, and who were in charge of the security of the

leading personalities of the respective countries. In excess of that, the tasks developed later on: protection of the Reich from the inside, seizure and training of this elite and excellent German material, as far as these people were not already in the Wehrmacht, and unless, of course, they were prevented from joining due to certain party regulations. These people were to become some part of a group of leadership of purest and the best kind. No other motives but these decent, honest, motives, in which we firmly believed, would have induced us to join the SS. Especially not as a main profession, because we all had our incomes and we really did not need to become professional criminals.

* * * * *

CROSS-EXAMINATION

MR. ROBBINS: * * * You held a very high and important position in German life; and I'm not satisfied that Dr. Seidl completely brought out the full significance of the important position that you held. So I should like to go back over a few of those details, if you please; and I would like to ask you about the nature of the different positions and the duties and functions which you carried out in those positions, as well as the dates when you held those positions. I believe you told us that you were the Highest SS and Police Leader in Italy. Will you tell us what that was about?

WITNESS KARL WOLFF: My rank as the Highest SS and Police Leader in Italy entailed the task of providing law and order, security and peaceful working conditions in the rear of the army area, at the back of the German southern front, which was involved in very heavy fighting at the time.

Q. Is a Highest SS and Police Leader something different from a Higher SS and Police Leader?

A. Yes. First of all the name, the superlative "highest," shows that it is the highest rank in that department. Moreover, the prosecution should take into consideration the fact that there is a distinction between the Highest Police and SS Leader in occupied territory outside Germany and a Highest SS and Police Leader in Germany itself. These are two distinct positions, and tasks are equally distinct.

Q. As a Highest SS and Police Leader, who was your immediate superior?

A. The Reich Leader SS.

Q. You were assigned to the Duce in Italy. Will you tell us what functions you carried out there?

A. I was assigned to the Duce as a consultant in police matters. The overthrow of the Duce and his capture on 25 July 1943 showed

that the Italian security police and the famous 150 Musketeers of the Duce, his personal, well-proved bodyguards failed—

Q. Excuse me. I must have misunderstood you. In your assignment as liaison officer to the Duce, it wasn't a part of your duties to capture the Italian forces was it, or to negotiate their surrender? Continue with your answer.

A. I believe there is a misunderstanding here. What I want to say is this. I just wanted to describe my duties with the Duce. I'm quite willing to following the prosecution's idea that as to the Duce's personal security, his life, I was responsible for these things to the Fuehrer and the Reich Leader. My second assignment was to advise him when he reestablished a reliable Fascist security police and when he also formed the new police and regular police, both based on the example of the SS.

Q. In this position who was your superior?

A. In this position the Reich Leader SS was my superior, and my highest superior, of course, the Fuehrer.

Q. During what period of time did you hold this position?

A. That position I held from the day after the so-called Badoglio surrender of 9 September 1943 until the capitulation in May 1945.

Q. And during what period of time did you hold the position of Highest SS and Police Leader in Italy?

A. I made a slight mistake there. In the period which I mentioned just now from 9 September to May 1945 I was Highest SS and Police Leader. Of course, only after the Duce was liberated from Monte Sasso I was assigned to him then. This occurred roughly in the middle of September, I think between 16 and 23 September 1943.

* * * * *

Q. General, you were chief of the Personal Staff of Reich Leader SS Himmler. Will you tell us the nature of that staff and the nature of your duties?

A. The Personal Staff of the Reich Leader SS had the task of assisting the Reich Leader in carrying out his numerous tasks and relieving him on some of the workload. This working staff was subdivided mainly into his personal adjutant's office, which dealt with all visitors and all appointments for him. Then there were his personal experts such as Dr. Rudolf Brandt, who is known to the prosecutor from the Medical trial and to the Tribunal too, who dealt with all his correspondence. Then there was the police adjutant's office dealing with security, police, and order questions directly with the Reich Leader. Then there was the Reich correspondence department which took care of files; and then there was the financial administration which disposed of funds which he received, either from the Party or from the state; and finally

he had a main department dealing with guests and invitations he sent out, as well as decorations, and there was the personnel department. In addition to that there were a number of officers attached to his personal staff which from the organization point of view could not be placed in any other main department, or which were particularly close to the Reich Leader SS, and whom he wanted in his vicinity.

Would this description of the tasks be sufficient for the prosecutor, or do you want me to go into further details? For instance, would you like me to describe what the raw materials office handled and why that raw material department was attached to the Personal Staff and to me, and not, as one might assume, come under the WVHA, where one would assume it to be?

Q. No. That is adequate. This was a main office in the Reich Leadership SS, was it not?

A. Yes, quite.

Q. And you were chief of the main office?

A. Yes, quite.

Q. During what period of time were you chief of the Personal Staff of Himmler?

A. It was in the summer of 1936 that I became the chief of the Hauptamt [Main Office] and chief of the Personal Staff. Before that I was only chief adjutant, and in my position as chief adjutant I had no disciplinary and command authority of my own, but only the task of transmitting the wishes and orders from my chief to other agencies. The promotion to the level of the highest responsibilities in the SS, that of department chief, which was even higher than the Higher SS and Police Leaders in the Reich, meant that I had authority to give orders of my own.

Q. Excuse me, until what date did you hold this position as chief of the Personal Staff?

A. Until 18 February 1943. In practice entirely and as a main task only to the outbreak of the war, 1 September 1939, because with the outbreak of the war I joined the Fuehrer's Headquarters as liaison officer and I could only handle that as a sideline.

Q. You received mail during the year 1942 at the Reich Leader SS Personal Staff, did you not? You received mail addressed to you in care of the personal staff of Himmler?

A. I received such matters in the headquarters and such mail addressed to me as had been ordered by the Reich Leader to be dealt with. Other matters bypassed me.

Q. Just for my own information, was there another person on the personal staff of Himmler by the name of Wolf, who spelled his name W-o-l-f, a single "f"? Do you know such a person?

A. I only recollect that temporarily a stenographer, or some

female employee had been Gisela Wolf with one "f," but at the moment I cannot recollect any other person with one "f."

Q. You are presently a British prisoner of war?

A. Please?

Q. Are you presently a British prisoner of war?

A. Yes, I am at the moment a British prisoner of war, quite.

Q. Is it true that you made a request during the trial, the IMT proceedings, to take Himmler's place in that trial?

A. Yes. A year ago.

Q. Yes, and that was because you had extensive knowledge, was it not, of Himmler's activities? Just answer yes or no.

A. Yes.

* * * * *

Q. I would like to inquire just for a moment into the proposition that you asserted yesterday that only a very small number of people knew about the extermination of Jews and Poles. I would like to direct your attention to the people who were absolutely necessary for the carrying out of this task. It was necessary to have the construction of gas chambers to do this job, was it not? It was necessary to make arrangements for the construction of the gas chambers, and it was necessary to carry out that construction?

A. Certainly.

Q. And undoubtedly the people who built the gas chambers knew what they were going to be used for?

A. I hardly think so.

Q. What else could you use gas chambers for, and the gas chambers extended for blocks?

A. Yes. I don't know whether this explanation was given to the people who constructed these gas chambers, and if they were told just what was being built there and for what purpose the installations were to be used.

Q. Whether or not they were told about the purpose of building it was plain to them, wasn't it, that they were constructing these huge gas chambers so that people—human beings—would be gassed there?

A. I myself have never seen such death chambers, and never even have seen a picture of it, so I have no idea whatsoever of it. My entire knowledge consists of hearsay since March 1945, and, again since it has been determined in the big trial that only 150 persons are alleged to have had knowledge of these things, and participated in them. I myself in my seclusion and imprisonment in solitary confinement lacked any other source of obtaining information for the subject.

Q. I don't know what your reference to 150 people is; these

gas chambers were gigantic buildings, they were tremendous, and I cannot conceive of any other purpose for which they would be used. Undoubtedly, the people who built those buildings must have known what they were being used for. Well, let me ask you this. The guards who herded the inmates into the gas chambers, they must have known what they were going into the chambers for, didn't they?

A. Well, that could be assumed, yes.

Q. And the people, or the SS men who supervised the carrying of the dead bodies out of the gas chambers, they knew what was going on, didn't they?

A. Yes, certainly.

Q. And the people who constructed the crematory, as well as those who constructed the gas chambers, and the people who carried the bodies from the gas chambers to the crematory, they knew, didn't they?

A. I can only say this should be assumed.

Q. And the people who collected the property from the dead persons, and the people who examined the dead bodies for his hidden valuables, they knew what was going on, didn't they?

A. Yes.

Q. And the people who handled these valuables, and audited them, and disposed of them, they must have known what was going on?

A. I don't know what they were told.

Q. Well, the circle of people who knew about the gassings, and the mass liquidation of people, certainly was more than just a handful, wasn't it? It was not just a few people you told us about yesterday?

A. I don't think that I used the expression "a few people." I would like to give you a proportional number, then I would assume that the people who had knowledge and who participated in the planning and execution of these monstrosities, were merely tenths of one percent, and I would say that that itself is a good percentage and to a number of one million members of the Waffen SS, or the General SS, that it is an infinitely small proportion. For the majority of the SS it is incomprehensible that the entire group collectively were sentenced as criminals, although they neither played any part in this nor did they have any knowledge.

Q. Well, General, I didn't say that every SS man knew about all of the atrocities, and the judgment of the IMT does not condemn every SS man, only those who became and remained members of the SS with knowledge that the SS was being used as a criminal organization; but I don't think this is the place to debate the correctness of the IMT judgment because they listened to evi-

dence over a period of months and came to the solemn deliberation that the SS was being used on a gigantic scale for the extermination of people.

General, you don't today condone or approve the mass liquidation of Jews, do you?

A. To the contrary, I am ashamed, just like any other German that something like this could have happened in Germany at all, and I am twice as ashamed that this happened in a uniform which for us incorporated the highest honor, and that this uniform was soiled in such a manner.

Q. And you do not approve either of the working of concentration camp inmates to death, do you?

A. No, by no means.

Q. And your sentiments today are exactly as they were during the war; is that correct?

A. Yes. Now I have felt on myself for two years what a concentration camp means, because our imprisonment and our internment is nothing else than a little change from a concentration camp.

Q. I assure you, General, that there is a great deal of difference between your imprisonment here in Nuernberg or in any other jail under the Allies from the conditions of inmates in a concentration camp. I would ask you, do you approve of or condone the killing of inmate workers after they were no longer able to work? That was carried out on a mass scale by the SS.

A. I am opposed completely to this, like any other decent human being.

Q. I ask you if you condone or approve of the wholesale migration of peoples from one place to another, force migration?

A. No. If a person really did not come voluntarily, then this person should not be subjected to the injustice and brutality of force.

Q. You don't approve of shipping Poles by the wholesale into Germany for work?

A. No. I am not in agreement with that at all. If I can say it in this way, there were Polish agricultural workers who had come to Germany in peacetime many decades ago. Whoever comes voluntarily, yes, but I am opposed to forced deportation.

Q. And you are opposed, are you not, to the forceful migration of Jews from the Warsaw ghetto under the force of arms?

A. Naturally.

Q. You are opposed, are you not, to the incarceration in concentration camps of people who were guilty of no other crime than being Jews or Poles?

A. Yes, and I am altogether opposed to the principle of concentration camps out of my own bitter experience.

Q. As to the migration of people from the Warsaw ghetto, were you informed about that, details of Action Reinhardt?

A. No.

Q. You did not know that Jews were deported from Warsaw to Treblinka and to Lublin and other concentration centers?

A. No.

Q. General, you have maintained that position throughout your testimony here. I would like to show you a document which I believe will considerably refresh your recollection on that point. This is a letter addressed to you, is it not? Do you recognize this letter, General?

A. I have seen only the first letter. May I also look at the enclosure, the second letter?

Q. Yes, indeed. That is your answer to it. I would like to read part of the first letter there, which is a letter from Ganzenmueller, State Secretary of the Reich Ministry of Transportation, to you. It is dated 28 July 1942, and it reads:

“With reference to our telephone conversation of 16 July, I wish to pass on to you the following report from my General Directorate of the Eastern Railways at Krakow for your information:

“Since 22 July one train per day with 5,000 Jews goes from Warsaw via Malkinia to Treblinka, as well as two trains per week with 5,000 Jews each, from Przemysl to Belsec. Bedob is in constant touch with the SD at Krakow. The latter agrees that transports from Warsaw via Lublin to Sobibor, near Lublin, should be interrupted as long as building on this route makes these transports impossible.”

And then your reply a few days later on 13 August 1942 to Ganzenmueller:

“Dear Party Member Ganzenmueller:

“Thank you very much, also in the name of the Reich Leader SS, for your letter of 28 July 1942. I was especially pleased to learn from you that already for a fortnight a daily train, taking 5,000 members of the Chosen People every time, had gone to Treblinka—” and so forth. “I have contacted the departments concerned myself, so that the smooth carrying out of all these measures seems to be guaranteed.”

Does this help your recollection, General?

A. Yes, the letter is an original letter which State Secretary Ganzenmueller addressed to me. It also bears my personal remarks, and it is beyond any doubt correct. Likewise the letter which I wrote in reply.

Q. Would you read to the Tribunal the handwritten notes which are in your handwriting on the original? I don't think they appear on our copy.

A. Yes, very well: "Thanking you very much. Copy sent to Dr. Brandt, Brigadefuehrer Globocnik and Obergruppenfuehrer Krueger. 2 August," and my initial, "W."

Q. Now, you told us this morning that it was considered bad taste and indelicate to discuss such matters as this. Apparently, such discussions were carried on. The letter says that you talked to Ganzenmueller about this on the telephone; you wrote letters about it. You don't still maintain that you knew nothing about the transportation of Jews from Warsaw to Treblinka? You were informed about that?

A. I do not deny in any way, after my memory had been refreshed in this way, that I was connected with these things. However, it is completely impossible after many years have passed to precisely remember every letter which ever passed through my office, and may I also point out that this was the usual procedure. When we were captured, not only all our papers were removed, but also all our personal property was taken away.

Q. Do you mean to tell us that you didn't hear anything about this matter until 1945, until you read it in the newspapers in Switzerland? Do you mean to say that you could not remember that 5,000 Jews a day were being shipped from Warsaw for 6 days—no, you say in your letter 14 days. That is 70,000 Jews, General.

A. I admit without any reservation that this had slipped from my memory. However, it is not possible for a human being to remember every letter which I wrote during a number of years. I gave the answers according to the best of my belief and knowledge and to the best of my recollection.

Q. I am not so much concerned about your remembering the letter as I am about your remembering the general subject matter of the letter. I am asking you if this represents what you call the best blood of the Germans? Is this the elite group that you were talking about, the select character of the German nation? Is that the way you were building up greater Germany, and if we are going to look into the examination of history, as you have told us, these are facts that ought to be brought out, isn't that true?

A. Certainly. However, in transportation of the Jews, I really can't find anything which might be considered criminal.

Q. Well, you consider transportation of Jews in wholesale masses from Warsaw to Treblinka for the purpose of extermination as a war crime do you not?

A. I told you that I can only use my memory, and I can only

certify to the best of my knowledge and belief that I had nothing to do with these things.

Q. Let's see if your memory is better on another subject. Do you remember Himmler's address to the officers of the [Leibstandarte] "SS Adolf Hitler" on the day of Metz on the presentation of the historical Nazi flag? It was in 1940 or '41.

A. Where did that happening take place?

Q. Well, it was on the day of Metz, M-e-t-z. I don't have the location of the speech. It was on the presentation of the Nazi flag, and it was addressed to officers of SS Leibstrandarte. You don't remember that?

A. I don't want to claim in any way that I did not accompany the Reich Leader and that I was there. As a matter of fact I consider it probable. However, I am not able to say it with absolute certainty after 6 or 7 years have passed.

Q. Do you remember Himmler's statement on that occasion as follows: "The building program, which is the prerequisite for a healthy and social basis of the entire SS, as well as of the entire Fuehrerkorps, can be carried out only when I get the money for it from somewhere. Nobody is going to give me the money. It must be earned, and it will be earned by forcing the scum of mankind to work." Do you remember Himmler saying that?

A. I cannot remember it, but I consider it quite probable.

* * * * *

Q. You know today that millions of Jews were exterminated under Himmler's policy, and I ask you if this is the best—represents the best—of the German blood? Is this the elite that you were talking about, the select character of the SS with all of its cultural tendencies?

A. The majority of the SS members had nothing whatsoever to do with it.

Q. You don't deny that the SS themselves carried out the program, do you?

A. No. I said that the majority of the SS, and I again want to point out that only a very small minority actually had anything to do with this matter and had any knowledge of it or heard of it subsequently.

Q. Well, you don't claim today that Himmler was among those elite people who represented the best of German kind, do you?

A. No. I cannot maintain that today, much as I would like to.

Q. And Rudolf Ferdinand Hoess, who was an SS man in charge of Auschwitz has given an affidavit which is used in this case in which he says that he carried out the execution of three million Jews. You don't consider Hoess an example of the best of German kind, do you?

A. In no manner whatsoever. One only has to look at him to see that.

Q. And you know Otto Ohlendorf, do you not? He was an SS man?

A. Yes.

Q. He has given an affidavit which is used in this case, and he says: "When the German Army invaded Russia I was leader of Einsatzgruppe D; it liquidated approximately 90,000 men, women, and children. The majority of those liquidated were Jews, but there were among them some Communist functionaries too. The unit selected for this task would enter a village or a city and order the prominent Jewish citizens to call together all Jews for the purpose of resettlement." And then he goes on to say how they were shot down in ditches. That was not carried out by one SS man. You don't consider this the best that Germany can offer, do you?

A. No.

Q. And you don't consider this just a minor violation of land warfare, do you?

A. No. This is the worst crime which has been committed in the history of mankind.

Q. Well, there have been quite a number, General, that were carried out by the SS which perhaps were just as bad. Did you hear about the destruction of the village of Lidice in Czechoslovakia? The IMT found as a matter of fact that this was carried out by the SS. This isn't the best that the German youth can offer, is it?

A. I am unable to judge that. The court at Dachau has also determined that 47 men of the Leibstandarte had shot down the Americans at Malmedy, and later on it was discovered—

Q. I didn't ask you anything about the Malmedy trial. I am asking you, you don't condone the destruction of the village of Lidice, do you, you don't approve of that, do you?

A. I am unaware of the details which happened there. I can only claim for myself that under my command no villages were destroyed and no such actions were ever carried out.

* * * * *

Q. * * * You know Globocnik, don't you? He was an SS man.

A. Yes, I know Globocnik.

Q. Did you hear of his final report on the clean-up of the Warsaw ghetto?

A. To the best of my belief and knowledge, no. I have no knowledge of it.

Q. I could read to you for hours from it, the horrible details, but I am just going to read you two sentences from Globocnik's

report. This was his report to Himmler: "Of the total 56,065 Jews caught about seven thousand were exterminated within their former ghetto in the course of the large scale action, and 6,929 by transporting them to Treblinka II, so that fourteen thousand Jews were exterminated altogether. Beyond the number of 56,065 Jews an estimated number of five to six thousand were killed by explosions or in fires." This action was carried out by SS men, General, and he reports that a total of 60 Waffen SS men were killed in cleaning out the Warsaw ghetto because the Jews put up such a terrific fight. You are not proud of such a report as this on the records of the SS, are you?

A. No, I am not proud of those atrocities at all.

DR. SEIDL: Your Honor, the translation came through to the effect that we are dealing here with a report by SS Gruppenfuehrer Globocnik. However, this report has not been provided with any document number. However, if I understood the contents of the report correctly to which the prosecutor was referring, then this was not the report of Gruppenfuehrer Globocnik but it was the report of Brigadefuehrer Stroop.

MR. ROBBINS: Dr. Seidl is correct, Witness; the Action Reinhardt was carried out in Warsaw [sic] by Globocnik who was an SS man. This report, however, was written by Stroop. Do you know Stroop? He was also an SS man.

WITNESS KARL WOLFF: Yes.

Q. And Eicke? Do you think he represents the best of German youth? The best that the SS could offer? He ran the concentration camps in which thousands of Jews were exterminated.

A. May I ask you when and where they were slaughtered under the responsibility of Eicke?

Q. Well, they were murdered from 1939 on up until the time when he was removed from his position.

A. If that is correct, and the prosecution must be in the possession of the appropriate documents, then of course I can only object to these actions in the sharpest manner.

Q. And about the beautiful designs that were made by the SS? You told us about Himmler's designing porcelain horses that didn't have to be supported by flowers or some other instrument, so that they could stand on their hind legs. Can you tell us if the same designer designed this piece of porcelain as designed the shrunken heads of Dachau? This was also carried on by the SS. You heard about the shrunken heads of the inmates, didn't you?

A. I have only heard it here, and I have read it in the book by Kogon; I have read it with horror. Of course I cannot say myself if it is true or not.

Q. If it is true, it is nothing to be proud of, is it?

A. No, in no way whatsoever.

EXAMINATION

* * * * *

JUDGE PHILLIPS: General, in this letter that you wrote, the reply to the letter that you received on 28 July 1942 in regard to the transportation of Jews from Lublin to Treblinka, you say in this letter, this: "I have contacted the department concerned, myself, so that the smooth carrying out of all of these measures seem to be guaranteed." What do you mean by that?

A. It only referred to the actual transportation movement, the actual movement of the people.

Q. Whom did you contact?

A. I can only reconstruct this now according to the file notes which are contained in this letter with my signature.

Q. I am not talking about the file notes. I am talking about what you said. I want to know what you meant by what you said. That is what I want to know.

A. I meant that I had sent copies of this letter to Brandt, Globocnik, and Obergruppenfuehrer Krueger for the smooth carrying-out of all of these movements of the population.

Q. I am asking you what this sentence means: "I have contacted the departments concerned."

Now what departments did you contact?

A. As far as I can answer this question so quickly, I meant the agencies which have been listed here, and which were concerned with the transportation movement as far as the technical execution was concerned.

Q. Wasn't the Reich Leader SS concerned considerably about this?

A. If Dr. Brandt received a copy, then it was automatically to be submitted to the Reich Leader.

Q. Did you contact him and ask him something about it?

A. This procedure was carried out in writing because it is stated here that a copy of this letter was sent from Ganzenmueller to Dr. Brandt and all persons concerned.

Q. Where were you when you sent this letter; when you wrote this letter?

A. I was in the Fuehrer's headquarters—and give me a moment to look at it—yes, I was at the Fuehrer's headquarters. It was located in Vinnitsa in the Ukraine, and the Reich Leader SS was at least 25 kilometers away, at Berdichev, if he was not located elsewhere. That is why all the persons concerned received a copy of the letter, and that settled the case.

Q. What would these people, these Jews—5,000 a day—be, as you called them “Chosen People”? That is what you called them: “The Chosen People.”

A. Yes. They probably were Jews.

Q. I say, you called them “The Chosen People.” You meant the Jews, didn’t you?

A. I am not certain, but probably I meant the Jews by that.

Q. Well, General, you answered a letter about Jews in which the letter calls them Jews. You come back and call them “The Chosen People.” There is no quibbling about that.

A. Yes. The Jews themselves proudly call themselves “The Chosen People.”

Q. I said but what *you* called them, and you meant the Jews when you said that, didn’t you?

A. Yes.

Q. All right. Now, they were being sent, 5,000 a day, to Treblinka. Why were they being sent there?

A. I don’t know, but it was done by order of the Reich Leader.

Q. Why didn’t you find out? If you were thanking somebody for doing that, why didn’t you find out why they were being taken there?

A. With the innumerable orders which had to be taken care of during the day it was sufficient for me to know that the Reich Leader had given such and such an order; that the Reich Leader had ordered such a movement of transportation; and actually because it was purely a transportation matter and not an extermination measure, the State Secretary in the Reich Ministry of Transportation had to furnish the necessary transportation and, therefore, it was one of my tasks which brought me to contact the proper agency, so that the necessary transportation could be furnished. I did this in good faith, and that is the way I worked on it.

Q. Were you thanking them for yourself and in the name of the Reich Leader SS for carrying on this program? And you tell this Tribunal that you didn’t know what this program was?

A. Yes.

* * * * *

JUDGE MUSMANN: General, I would like to put one question, which, perhaps is only of academic interest, but which certainly has aroused my curiosity, to say the least. Mr. Robbins indicated that at the first trial you had offered to place yourself in the defendants’ box to represent Himmler.

WITNESS KARL WOLFF: Yes.

Q. Did you mean by that gesture that you would be willing to answer for the crimes which could be laid at his door, if any?

A. Yes. I was faced with the situation that the highest war lord and commander of the SS and the Wehrmacht, that is, Hitler and Reich Leader SS Heinrich Himmler, had disappeared in a mysterious manner. After the surrender, we who were not guilty personally and who were not conspirators were faced by the startling fact that from one day to the next we had changed from members of an elite organization to members of a criminal organization. In order to have the possibility to clear up questions of guilt and innocence and to state the pure truth about that, I regarded it as my duty to jump into that gap, although I was not the deputy Reich Leader SS, in order by sacrificing my own person to give a comprehensive picture to the IMT, to establish legal evidence, and to help in finding out guilt and innocence in a manner which would be acceptable to history, the person of General Wolff is without any interest in this case; the principle, however, is important, which also appears in combat—if the man before you is killed, you jump into the gap.

* * * * *

Q. Then you didn't really intend to become the alter ego of Himmler. You merely wanted to explain the SS organization as you had lived it?

A. Yes, and I was prepared, if necessary, to give my life for it, just as during the entire war.

Q. Very well. Thank you very much.

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EXTRACT FROM TESTIMONY OF DEFENSE WITNESS BICKEL *
DIRECT EXAMINATION

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DR. FROESCHMANN (counsel for defendant Mummert):
Witness, I have now reached the end of my direct examination, but I would like you to clarify one more point, for us. When you spoke about the SS in your detailed statements, did you refer to the SS circles you were in contact with, that is to say the circles in the concentration camp and whatever goes along with it, or did you refer to the SS circles who were fighting in the front lines as members of the Waffen SS and who sacrificed their lives for their Fatherland?

WITNESS BICKEL: Even these SS murderers who murdered my comrades and mistreated me also used the fulfillment of their duty as their basic motto. To what extent their duty in murdering and mistreating concentration camp inmates varied from what was

* Complete testimony is recorded in mimeographed transcript, 31 July, 4 August 1947, pp. 5381-5512.

For personal data of this witness, and further excerpts from his testimony, see pp. 459-475, 685-687, and 812-821.

done in the front lines, I can't tell you. I can only compare the actions of the SS men who came to us from the front lines and those SS men who had never been in the front lines: all of them acted alike. The SS man who was assigned as a guard in a concentration camp or as officer of the guard in a concentration camp, the moment he entered that barbed wire fence simply became a member of a group of murderers. In order to give an example there was an SS Obersturmfuehrer who had just returned from front line duty and he had a small terrier and while working one of the inmates, a Jew, while pushing his little cart, unintentionally, hit his little dog. The dog just gave a little yelp; that was all that happened. This SS man liked the dog so much, however, that for that reason, because the man had molested the little dog, he killed the inmate. That is how much he liked the animal and hated the human being. That was not his character. That was simply the outstanding position which he held and where he had power over the life and death of the inmates.

For the SS men it was the sacred duty toward the Fuehrer to kill an inmate as brutally as possible. I am differentiating here between the SS men who had power over us in the concentration camps and those in the economic enterprises. There was much difference. The SS men in the economic enterprises could not get behind the barbed wire because their field of work was so different.

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V. SELECTIONS FROM THE EVIDENCE CONCERNING THE SPECIAL DEFENSES

A. Introduction

In the Nuernberg trials, special defenses were generally interposed in answer to several, and sometimes in answer to almost all, of the various charges of criminal conduct. The materials reproduced in this section deal with a number of special defenses in the Pohl case. This evidence, with few exceptions, is taken from the testimony of defendants or defense witnesses.

A special defense, very frequently put forth in the Pohl case, was that particular defendants were connected with the WVHA only at an organization or administrative level; that they did not participate in policy-forming, nor did they otherwise influence the determination of the conduct of the WVHA which formed the basis for the charges; that even if offenses were committed through the instrumentality of the WVHA, the activity of indi-

vidual defendants in their official or administrative capacities did not constitute criminal conduct. Evidence concerning this defense appears on pages 786 to 801, "The defense of mere organizational or administrative association."

In all trials at Nuernberg, the defense of superior orders was raised. In connection with this defense and the individual responsibility of subordinates in the Pohl case, the application of the leadership principle [Fuehrerprinzip] of the Nazi Party came into issue, particularly since all of Pohl's codefendants were subordinated to him. The evidence reproduced in "The defense of superior orders and war necessity," includes testimony of the defendants Pohl and Georg Loerner and of defense witness SS General Karl Wolff. Evidence concerning this defense appears on pages 801 to 808.

Evidence concerning another special defense is reproduced on pages 809 to 821, "The defense of lack of knowledge because of secrecy regulations."

B. The Defense of Mere Organizational or Administrative Association

Testimony

	Page
Extracts from testimony of defense witness SS General Karl Wolff..	786
Extract from testimony of defendant Pohl.....	789
Extracts from testimony of defendant Vogt.....	789

EXTRACTS FROM TESTIMONY OF DEFENSE WITNESS SS GENERAL KARL WOLFF *

DIRECT EXAMINATION

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DR. SEIDL (counsel for defendant Pohl) : I now come to my final question. What reputation did the defendant Oswald Pohl have within the leadership of the SS as a soldier and as a comrade ?

WITNESS KARL WOLFF: One must perhaps differentiate here between two phases, the phase until the capitulation, and the phase afterwards. Up to the time of the capitulation, and until we heard something of these atrocities in the concentration camps, which naturally because of their organizational and schematic connection incriminated the defendant Oswald Pohl to a very large extent, until that time Oswald Pohl had a very good reputation. He was highly esteemed everywhere, and because of

* Complete testimony is recorded in mimeographed transcript, 3-5 June 1947, pp. 2090-2206.

For personal data of this witness, and further excerpts from his testimony, see pp. 678-681, 768-784, and 803-804.

his energy and his comradeship and his assistance he was well liked, and he was a very respected comrade. We know that money rules the world. He was the man who in this case had to distribute the funds, and at that time, at his best time, he was the chief, there might have been some people who bore a grudge against him if he was unable to satisfy every desire. However, up to the time of the capitulation I never heard any criticism worthy of mentioning against him, besides making fun about some little human weaknesses which he had like all other mortals. After the capitulation, of course, the opinion and the readiness of his old comrades to intervene in his behalf and to expose themselves in public unfortunately disappeared to a very large extent, and I would like you to consider that point also when you ask the questions.

Q. You have previously stated that this schematic organizational connection apparently incriminated him. What do you mean by that?

A. After the attacks which appeared in the German press and the world press, and which described Pohl as the worst criminal after the Reich Leader SS, this already means a very bad incrimination because the outsider will assume that the press will not write anything of that sort without having a sufficient basis for that, and therefore, after so many other horrible facts and atrocities were stated afterwards, everything seems to have turned against Oswald Pohl. However, I, as I have already described to the Tribunal before, knew him since 1934, and I knew him very closely indeed, and since I have seen what mental difficulties he had to undergo before he carried out his first divorce, and beyond that in how decent and honorable a manner he carried this through. I am still convinced today that Pohl did not issue any order for the killing of any human being and that it was not the intention of Pohl, the intentional purpose of Pohl, to work somebody to death. It is his misfortune to be connected upon orders organizationally with the most terrible problem of all centuries. And that he seems to have been brought into connection with this, and to stand today before this Tribunal under the charge that the verdict of the IMT has declared the SS, and with that all members of the SS from the very beginning, as members of a criminal organization. And that already is a preliminary charge in itself. Of course this is a terrible handicap for Pohl, and it is also a severe incrimination which has also been placed on the hundreds of thousands of young, enthusiastic volunteers and has been thrown after them into the graves; who died without having had any idea about Auschwitz or Lublin; gladly gave their lives in fulfilling military service for their

country in the belief that they had been members of the elite, the knights of the German people; and who today in their graves still are the victims of this verdict.

DR. SEIDL: I have no further questions.

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CROSS-EXAMINATION

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MR. ROBBINS: Now, you have told us about the character of the defendant Pohl. Proof in this case shows that under the WVHA and under the supervision of the defendant Pohl in the stone quarry people were worked 11-14 hours a day; people were worked until they were no longer able to work. They were killed while they were working, and when they were no longer able to work they were sent out to extermination camps, in the concentration camps under the defendant Pohl. Thousands and thousands of people—six hundred thousand, Pohl says—in 1944, those people were enslaved and imprisoned; their property was taken away from them. People who loved life and fought for life just as hard as you and I do, General. What about a man like Pohl? Is this the best that the SS had to offer? Is this the man that you are proud of?

WITNESS KARL WOLFF: I have already repeatedly told the prosecution today and yesterday that in my conviction Pohl did not have anything whatsoever actively to do with these things, and up to now the prosecution has in no way led me to believe that Pohl—who was only responsible for the direction of the allocation of labor, and was only organizationally and schematically brought into connection with these things—that Pohl, is really guilty in the sense. The prerequisite for the fact that I declared myself prepared to appear here as a witness in one of the most important of the SS trials on his behalf, and on behalf of his comrades, was his answer to a question which I asked him on his word of honor; whether he had anything to do with it, and I asked him whether my concept was correct or not, and he confirmed that I was correct, on his word of honor. Since I have known him for many years only as a very decent human being, and since, as one of the few survivors, I still know exactly the organizational connections; I refuse to the utmost to leave a comrade when I am personally convinced of the fact that he never issued an order for killing, or for an arbitrary commission of inhumane acts.

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EXTRACT FROM TESTIMONY OF DEFENDANT POHL ¹

EXAMINATION

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DR. MUELLER TORGOW (assistant counsel for defendant Georg Loerner): The prosecution, by introducing Document NO-519, Prosecution Exhibit 490, in document book 19, page 44 in the German document book and in the English document book on page 41, and so forth, brought Georg Loerner into connection with the taking over of the ghetto in Litzmannstadt [Lodz]. That is when the ghetto in Lodz was changed into a concentration camp. This complex was discussed today, this morning. From the entire correspondence that was submitted, only one single letter was sent to Georg Loerner for information. I would like to read this letter. It comes, I assume, from you. There is no name here and it is addressed to Gauleiter Greiser in Poznan.

"Dear Gauleiter:

"I thank you for your letter of 14 February 1944, file note 386-44. I am very glad that with your conversation with the Reich Leader SS the question of the ghetto in Lodz has been cleared up for good. I note with pleasure that the SS WVHA no longer has anything to do with the matter. As far as a share is concerned in our French wine shipment, I shall write you within the next few days."

Why was it that this letter was sent to the defendant Georg Loerner contrary to all other letters which were not sent him? Why was it sent to him for informational purposes?

DEFENDANT POHL: The last sentence was a personal request of the gauleiter, and Loerner was to take care of that. It has nothing to do with the balance of the letter.

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EXTRACTS FROM TESTIMONY OF DEFENDANT VOGT ²

DIRECT EXAMINATION

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DR. SCHMIDT (counsel for the defendant Vogt): Witness, I shall now come to one of the points of the indictment which is rather important for you and this is the Reinhardt Action. You know that the prosecution is bringing you into connection with that action because you, in June 1943, carried out an auditing task in Lublin. I ask you for the time being, Witness, that auditing which you carried out was that within the framework of your office as a preliminary checking office of the court of audits?

¹ Complete testimony is recorded in mimeographed transcript, 16, 19-23, 27-29 May, 2, 8 June, 25 August, 1947; pp. 1253-2040 and 6759-6786.

² Complete testimony is recorded in mimeographed transcript, 13, 16, 17 June 1947; pp. 2757-2916.

DEFENDANT VOGT: No. This checking was special order which I had been assigned by the Main Office Chief through Amtsgruppe A; it deals with the checking of the garrison treasury of the Waffen SS Lublin; I did not have an order, however, to check on Globocnik's account there.

Q. The treasury of the garrison of Lublin, was it under the supervision of the WVHA administratively?

A. No. This treasury was under the SS Economists at Krakow and the chief was Standartenfuehrer Schellin.

Q. You told us before that at the time you received that special order through the Amtsgruppe A. That order, was it directed only to the effect that you should check the garrison treasury or when you received your order was the "Account R" also mentioned then?

A. The order said that I was to check the garrison treasury. The term "Account R" was unknown at the time; only in the course of the examination this term came up and became known to me.

Q. You tell me in the course of the examination—can you explain this in detail?

A. When taking up the cash of the treasury at Lublin I was also shown foreign exchange in bank notes and coins. When the chief of the garrison there, Sturmbannfuehrer Wippern was asked where all this foreign exchange came from, he told me that that was money which originated from the confiscation carried out by SS and Police Leader Globocnik—

Q. Excuse me Witness, if I interrupt. You said when the chief of the garrison was asked this question, or that you asked that question to Wippern regarding where the foreign exchange came from?

A. It was a question from me to Wippern.

Q. I see. Go on.

A. Furthermore, I was told that this foreign exchange had come from the Jews who were interned in the labor camp near Lublin. The entry about those confiscated goods, was contained in one of the books of the treasury at Lublin.

Q. Those entries, were they marked in any particular way?

A. Yes. They were marked with, "Account R."

Q. This foreign exchange which you just mentioned—was it contained in the balance sheet of your books, in the account or cash account?

(For the interpreter, I should like to point out that the term has also come up in the document book and was translated with "certificate about the balance on hand".)

A. The certificate about the balance, or cash on hand, had a

special sheet of paper attached to it explaining where all those foreign bank notes came from, their value and the rate of exchange.

Q. Witness, from your affidavit which was mentioned several times, in Document NO-1567, Prosecution Exhibit 8, [document book I, page 31 of the English version], can be seen that during your pre-examination you were shown a document and that was Document NO-061; this document is contained in document book 18, and it was introduced as Prosecution Exhibit 475 by the prosecution. I ask you now, Witness, that certificate about the cash on hand which you just mentioned and which was shown to you at the time when you were auditing at Lublin—is that identical with the document which was shown to you during your present examination, in NO-061?

I would like to point out to the Tribunal that Document NO-061 contains the evaluation up to 3 February 1943, I believe, of the various things and effects that belonged to Jews, it is dated: "Lublin, 27 February 1943," and it is signed by "SS Sturmbannfuhrer Wippern," who was already mentioned by the defendant a few minutes ago.

My question, Witness, therefore, is to the effect: Is this document identical with the one that was shown to you during your examination in Lublin?

A. No. This Document NO-061 shows the number of goods and valuables delivered up to 3 February 1943, namely, the foreign exchange and other valuables, and it is dated 27 February 1943. This list which was shown to me when I was counting the cash in the treasury looked about the same from the outside. That is, all the bank notes were listed according to their place of origin and value. However, in its contents it contained foreign exchange which was actually in the cash box on the day of the checking. In other words, not something that was in the cash box at an earlier date and had disappeared by then; but only those amounts of foreign exchange which was in the cash box on the day of the checking. The Document NO-061, however, does not only contain foreign exchange and coins, but it contains also valuables, precious ore and other valuables. However, they were in no way connected with the examination of the treasury.

Q. I have to put it to you, Witness, that in the affidavit which was mentioned by me several times and which, on 16 January 1947, you gave Mr. Ortmann, who was your interrogator, you mentioned the fact that you knew Document NO-061, and that it was shown to you when you carried out the examination of the treasury at Lublin? Now, how can you explain this contradic-

tion on your part? That is, your statements today compared with those during the examination, or rather, after 16 January 1947, the date of your affidavit?

A. During the examination the Document NO-061 was shown to me for a very short while—and that only the first page. As I was not wearing any glasses, I could not read the figures. According to outside appearances it looked like that particular document that was shown to me when I was carrying out the examination at Lublin; the same list, but with different contents. If the document had been given to me, if I would have been able to hold it in my hand, and if I would have looked at pages 3, 4, and 5 instead of just one and two—and if I would have had any possibility whatsoever to acquaint myself with the contents of the documents—then I would have had to tell the interrogator that I didn't know that document.

Q. Witness, was this document shown to you once more either after the signing, or prior to your signature [of the affidavit of 16 January 1947]?

A. Only the first time—the last page of the document was shown to me so that I could recognize the signature of Wipperfurth. When the affidavit was shown to me in its completed form, I didn't see that document again.

Q. Well, now, I shall put this to you. You state in your affidavit, "Nor do I object to the computation of the values which are contained on page 4 of this Document, NO-061, and [which] shows a total amount of 100,047,983.91 Reichsmarks". You said before that you saw the signature of Wipperfurth, if I understood you correctly. I must put it to you—didn't you see this total amount of 100,000,000 and some thousands of Reichsmarks? Didn't you notice that at the time?

A. No. The interrogator only showed me the name and he covered up the remaining contents of the letter. I couldn't see the total amount, and he told me the total amount later on.

Q. Is it customary that the man carrying out the examination of the treasury is shown the certificate about the cash on hand?

A. Not only was it customary, but there was a regulation covering that. When we took down the cash on hand we had to set up a certificate about the cash on hand with reference to the various bank notes contained therein, which list was supposed to give information about all the bank notes contained in the cash box. That regulation is covered by Section 80 of the Reich Treasury Code.

DR. SCHMIDT: Your Honor, may I point out that the Reich Treasury Code was introduced by me as Exhibit 4.

Witness, at the time did you carry out the checking of the

treasury of the garrison of Lublin personally, or did you let the examiner do that?

A. The checking up on the cash on hand,—I believe this was covered by Section 89 of the Reich Treasury Code—was my personal task. I delegated the auditing of the books and vouchers to my auditor Hauptsturmfuehrer Hahnefeld. I myself dealt with the auditing of the garrison treasury itself.

PRESIDING JUDGE TOMS: Dr. Schmidt, just two short questions that I am not sure about. Did the defendant count the securities that were in the "R" fund?

DR. SCHMIDT: I didn't quite understand the question in the translation. Would you mind repeating your question, please?

PRESIDING JUDGE TOMS: Did the defendant count the securities and the foreign exchange that were in the "R" fund at Lublin himself?

DR. SCHMIDT: Witness, would you like to answer that question?

DEFENDANT VOGT: Yes. The foreign exchange which was shown to me was contained in that list, and it was on the basis of that list that the foreign exchange was counted.

PRESIDING JUDGE TOMS: Well, did you count it? Did you count it yourself?

DEFENDANT VOGT: The foreign exchange was placed and counted on the table, and I compared the figures with the ones on the list.

Q. You checked the money against the list?

A. Yes. That is correct.

Q. Did you make up the list? Or was it already made up for you?

A. The list had already been set up for me.

Q. So you didn't compile—you didn't make up the list yourself? The exchange and the list were put down in front of you, and you verified it?

A. Yes, indeed.

DR. SCHMIDT: Did you, Witness, when carrying out the examination which we are just mentioning, also check up on valuable items on hand, jewelry and valuable stones, for example?

DEFENDANT VOGT: No. The checking of the treasury had nothing to do with those things because that was a matter for itself which had nothing to do with the foreign exchange, really, because in those accounts no jewels had been entered.

JUDGE PHILLIPS: I see in your affidavit here the following, "I noticed also precious metals which I saw in a trunk in the big safe. Upon my questioning I was told that these were to be delivered to the Reich Bank. It was not only gold but a great amount of precious metals whose value I could not appraise."

Well, now, didn't you say that in your affidavit?

DEFENDANT VOGT: Yes, indeed, your Honor, I did. May I go into detail about it, your Honor?

PRESIDING JUDGE TOMS: It appears that in Judge Phillips' mind there is a contradiction here, Dr. Schmidt. Can you clear it up?

DR. SCHMIDT: Well, your Honor, I wanted to ask a question, and put the same question to the witness right now.

DEFENDANT VOGT: These jewels and precious metals were not within the vault itself nor in the cash box either. They were contained in another safe which was outside of the vault. One or two days, or, rather, I believe it was on the second day after the auditing, Wippern told me, "I just prepared a load of valuables for the Reich Bank. Do you want to take a look at it?" Whereupon I said, "Yes". He showed me those things for a short while and locked up the safe again and the whole matter was over.

DR. SCHMIDT: Was it your task to appraise those valuables?

A. No. It was absolutely impossible to do so. I don't even believe that the Reich Bank was able to do that.

Q. Why was it impossible, would you say?

A. Because I couldn't have appraised that. I only saw it for a very short time. I was not interested in it because it was not part of my task.

Q. How large was that suitcase which you saw in that safe; that is, that trunk that was filled with jewels and precious stones?

A. You could compare it with a week-end trunk. Apparently special things were contained in there that he wanted to give to the Reich Bank. The trunk had already been locked up, and it was ready for delivery. Perhaps he just showed it to me in order to interest me in the matter. I didn't ask him anything about it because I didn't know anything about the whole thing.

Q. At the time when you saw those objects, did you have any idea as to where these things could have come from?

A. No. I didn't have to have any idea beyond the fact that they came from Jews. However, that I did have misgivings of my own about it is natural, and it was more of a psychological thing for me to think that these people had been robbed of their property in the camps.

Q. Were you of the opinion at the time that those objects came from concentration camp inmates who had been killed?

A. I couldn't possibly have that thought because I only saw the trunk. I didn't know where it came from nor how it originated, nor was I told anything more specific about the whole thing.

Q. I shall now come back to your affidavit again, Witness. It said in there that you also saw large quantities of textile. How about that now?

A. I and Wippern, a few days after the checking of the treasury, were going to visit one of Globocnik's factories. That's what we called them—Globocnik's factories. We were walking right through the city. We passed a house where a sentry was posted. I asked him what this meant, and Wippern told me, "It's here that I have stocked the clothes for our Germans, and those clothes came from the confiscations. Would you like to take a look at it?" I walked into the house with him. There were three rooms in there, approximately the size of this courtroom here, which were filled with clothes of all kinds.

Q. Excuse me, Witness, if I interrupt you here. You are speaking of three rooms about the size of this courtroom here. Do you mean to say that every one of these three rooms was the size of this particular courtroom here, or do you mean that the three rooms together amounted only to the size of this courtroom?

A. Well, maybe these three rooms together were about one-third additional, one-third of the size of this courtroom, including the size of this courtroom. I can't recall all that because the clothes were hanging there. It was there that those clothes had been hung in an orderly manner on hangers. There were shoes, too. They were placed on wooden shelves; the greatest part of them were still packed. They were apparently taken from a storage room, as most of them looked almost new. The underwear was pressed properly and had been placed in closets. What I saw in those 10 minutes while I was there gave me an orderly impression.

EXAMINATION

JUDGE MUSMANNO: Gave you what kind of an impression? I didn't catch that.

THE INTERPRETER: A tidy impression, your Honor, an orderly impression.

JUDGE MUSMANNO: Witness, you knew that the clothing and the valuables came from dead people, did you not?

DEFENDANT VOGT: No, your Honor. One couldn't see that from just seeing the clothes. Everything was neat and had been hung properly; and most of the clothes looked new and apparently came from some sort of a storage room, from a warehouse. It wasn't just a big pile of clothes; but they had been hung up properly.

Q. Then let me call your attention to your affidavit. I don't quite catch the meaning here if you didn't know they were dead. On page 36 of document book number I, in your affidavit, I read this: "Almost without exception they were used clothing which had been taken from the people, also the trunks were there. I was told that the properties the people had brought along had to be

given up. However, after the manner and the way Globocnik had worked, I am pretty certain that they were dead."

A. Your Honor, this statement in my affidavit is not what I said myself because I couldn't possibly know it. The interrogator put these words before me and said, "Don't you believe that those clothes originated from dead people?" Then I said, "Well, it could be, of course."

* * * * *

Q. Let's find out the truth right now. You went to Lublin and you saw all this property. You saw the valuables and you saw the money. You counted the money. That is true, isn't it?

A. Yes. That's correct. I did see the money.

Q. Yes, and were you told where the money came from?

A. I was told by Globocnik that the money came from the confiscated property, the confiscated property of the Jews who were interned there.

Q. Did you ever have any doubt about that in your mind? Did you accept that at its face value, the expression which was made to you?

A. Yes. Because after all I only saw the money in the treasury. I didn't see anything else, and I didn't hear anything else.

Q. You never in your mind wondered whether this property did not come from individuals who had perished in some action by the SS against the Jews?

A. Your Honor, that particular Jewish action which was being carried out by Globocnik out there was not at all known to me at the time. I came to Lublin and didn't know about anything of what was going on in Lublin. I didn't know a thing about it.

Q. After you returned home, did you reflect on what you had seen?

A. Yes, indeed, your Honor. I had misgivings about it.

Q. What conclusion did you come to at home when you were separated from this place as to where this property originated?

A. Well, at the time I figured that those were things which probably were in connection with the action in Warsaw or with the destruction of the ghettos, although I wasn't told that on the spot. However, I did have to figure my own opinion about that because those were big valuables. There were many internees. But the only way I could possibly think about it was by judging from my own opinion.

Q. So there did come a time shortly after that visit that you concluded that these valuables and all this clothing had come as the result of a criminal action in Warsaw?

A. Well, the Warsaw action was explained to us as an action carried out by the Police and the Wehrmacht.

Q. Did you know that Jews had been killed?

A. That was in the papers. Whatever was published in the papers was known to me, your Honor.

Q. You knew then that this clothing and the valuables had come from these dead Jews?

A. Your Honor, whatever was there I couldn't know. I couldn't know that the clothes which I saw there had come from Jews who had died because it was not a big pile, as I told you before. Those clothes were hanging there neatly and tidily. However, it wasn't the amount which is contained in the document here, not 1,900 carloads. There were possibly four to five, or ten loads, but there were not 1,900 of them.

* * * * *

DR. SCHMIDT: Witness, in your affidavit you also referred to an inspection of three labor camps at Lublin. I now want to ask you the following question: For what purpose did you inspect the three labor camps at the time?

DEFENDANT VOGT: When auditing the accounts the auditing official pointed out to me that a large number of machines and tools had been procured and which represented a great value. In order to convince myself that these machines and other equipment were actually on hand, I told Wipperm that he should give me the opportunity to convince myself personally of the presence of this equipment. One afternoon—it was on the second or third day—we took a trip to three camps which were located just at the border of the city limits of Lublin.

I only inspected the workshops in the camp and not the living quarters of the inmates. We had workshops here where roofing paper was being manufactured. Then we had a big aircraft hangar where repairs were being carried out on aircraft and spare parts were manufactured, and then we visited a workshop where furs were being manufactured. The inspection of all the plants took up approximately one hour. After I had convinced myself of the existence of the equipment which was mentioned in the accounts I again left.

Q. On the occasion of that visit did you observe that the inmates of these workshops were being maltreated or that they were wearing inferior clothing and that they were ill-fed?

A. As I have already said, I did not visit the living quarters but I only visited the workshops. The inmates who were working there did not make a very bad or deteriorated impression on me at all. They were relatively well-dressed and they were relatively well-fed as far as I could form any judgment within the short period of time that I was there. What did draw my attention was that in this camp, in the workshops, the supervision was not

carried out by SS men but rather by the ranks of the inmates. Guards were only stationed at the entrance.

Q. Is it correct that at the time you also visited economic enterprises of Globocnik?

A. Yes. A difference must be made here between the economic enterprises in the labor camps which I have already described and economic enterprises which were subordinated directly to Globocnik. The latter consisted of an agricultural plant, the carpentry and a brickworks.

Q. Witness, I want to refer once more to Document NO-061 which I have already quoted. This document is located in document book 18. It is Prosecution Exhibit 475. In this document which is a list of the valuables belonging to Jews which were delivered up to 3 February 1943 and in section 5 of this list the following objects are listed among other things: pencils, fountain pens, eyeglasses, wrist watches, cuff links, flashlights, alarm clocks, thermometers, etc. At the time when you carried out your audit at Lublin did you see the objects which I have just quoted?

A. I did not see any such objects. I only saw foreign exchange and I saw a container filled with jewels and the clothing which I have already described.

* * * * *

EXAMINATION

JUDGE PHILLIPS: When did Frank send you to Lublin to make this investigation?

DEFENDANT VOGT: That was the middle of June 1943.

Q. When you got over there to Lublin, I believe you testified that this man Wippern was with you when you were making this check and this examination?

A. Yes, quite.

Q. How long was Wippern with you during this investigation?

A. The whole examination lasted perhaps an hour until all the money had been counted.

Q. Did Wippern tell you that he had made a report to the Reich Leader SS giving him in detail the property that had been taken from the Jews up to 3 February 1943?

A. No. That was not discussed at all, your Honor. I simply ordered that the cash—I made a note of the money on hand and handed over the actual auditing to my auditing official.

Q. How much cash did you find there?

A. I can no longer remember the figure, but as far as foreign currency is concerned, I estimate here without any definite knowledge whether it was a million or five hundred thousand; I do not know anymore.

Q. Didn't you find 53,000,000 and some odd marks there?

A. No. 53,000,000 marks—that had already been handed over, your Honor. 53,000,000 marks had been handed over already before 3 February 1943. I looked into the cash there in June 1943.

Q. Wasn't it already there and you went down to check it? Wasn't that what you were there for, to check what he had on hand, the cash on hand, 53,000,000 marks?

A. No, your Honor.

Q. Well, his report shows that he had it on hand, doesn't he?

A. These 53,000,000 were no longer in Lublin.

Q. How about banknotes?

A. The foreign currency was not left there either. That was new foreign currency which had meanwhile been delivered.

Q. How many bank notes did you find there, approximately?

A. Well, that is extremely difficult to say. It was a large parcel about this size, and most of it was Romanian lei, but from all over the world also.

Q. Did you find some American currency?

A. Yes. Yes, also dollars; certainly.

Q. Didn't you find some British pounds?

A. Yes, certainly.

Q. Didn't you find a large amount of French money?

A. French money, yes; but I am unable to say very much about the details. Money was there from all over the world.

Q. Didn't you even find some Cuban money there?

A. I don't know anymore.

Q. I'll ask you if you didn't find money from practically every known nation of the earth?

A. From all over the world, your Honor, all countries.

Q. I'll ask you further if you didn't find at the time you made this check as many as several thousand different kinds of items of personal property.

A. No. The examination showed only the money. Other items were not present there. They were not in the treasury because the treasury was in the official building of the garrison administration.

Q. Didn't this man Wippern tell you then that this was stolen property?

A. Wippern told me, "These are confiscated goods from confiscations carried out by Police Leader Globocnik."

Q. Didn't you then make up your mind that this was ill-gotten property and that after you had made your check you were so shocked until you almost ran away from there?

A. Your Honor, for me as an official—

Q. Just answer my question, please, and then you can make any explanation you desire.

A. That is true, yes; but that it was stolen property was not known to me. I had to assume that it was confiscated goods which had been taken away from the new arrivals. To me, as an official, it was a confiscation which had already been carried out.

Q. When you went over to that camp you saw practically all Jews there, didn't you?

A. Well, I assumed that they were all Jews. I don't know who was locked up.

Q. I'm talking about the ones that you saw.

A. I only looked into the workshops where I saw people.

Q. What about the ones that you saw in the workshops then?

A. I assumed that they were all Jews, yes; but I'm not sure.

Q. You knew they were foreign Jews didn't you?

A. There were also German Jews there.

Q. The majority of them were foreign Jews?

A. Yes, quite.

Q. You thought this property was taken away from them?

A. Yes.

Q. That shocked you so until you hurriedly left there to get back?

A. What shocked me, your Honor, was that so many people were interned there. That I saw for the first time.

Q. The taking of the property didn't shock you?

A. That was before, when I counted the money, I saw that. Now I'm speaking only about the camps.

Q. You asked this man Wippern what "Action Reinhardt" meant, didn't you, or what the letter "R" meant?

A. The letter "R" stood for an account; and he didn't explain to me what it was about. He only said it was a cover-name for a secret matter.

Q. Just answer my question. We can go along faster. I asked you, did you ask Wippern what the letter "R" meant? Did you ask him that or not?

A. Yes.

Q. All right, now, what did he say?

A. "It is a cover-name for a secret matter."

Q. That put you on guard right then that there was something wrong with it, didn't it?

A. Yes, because of the cover-name.

Q. Yes, and why didn't you go back then and report it to Pohl, your superior of the Main Office, and tell him that Frank had sent you over there on something you thought was crooked, and

tell him that you wanted to know what it was? Why didn't you tell him that?

A. My report to Pohl consisted of four or five points. I do not remember the details of the report, whether a statement on my part was made in that report. I am no longer sure about that. I did not have an oral conversation with Pohl about this. I was not called to see Pohl.

Q. Why didn't you report to Pohl that your immediate superior Frank had sent you over to Lublin on a mission that you considered illegal and that it was covered up by a fictitious name "Action R"? Why didn't you ask him about it?

A. I reported that as far as the department was concerned there were confiscated goods, and books kept about it under the name, "Account R."

Q. That's all you did about it?

A. Yes.

* * * * *

C. Selections From Evidence Concerning Defense of Superior Orders, and War Necessity

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Georg Loerner	Georg Loerner		
38	Ex. 34	Extract from SS Manual 2 (March 1935), on "Obedience".	801

Testimony

Extract from testimony of defendant Pohl	802
Extract from the testimony of defense witness SS General Karl Wolff	803
Extracts from testimony of defendant Georg Loerner	805

TRANSLATION OF DOCUMENT GEORG LOERNER 38 GEORG LOERNER DEFENSE EXHIBIT 34

EXTRACT FROM SS MANUAL 2 (MARCH 1935), ON "OBEDIENCE"

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2. Obedience—Form of oath for an SS man—

"We take the oath of allegiance and valor to you, Adolf Hitler, as our Fuehrer and Chancellor. We swear obedience unto death to you and the superiors appointed by you, so help us God."

“Obedience is the foundation of the Wehrmacht, trust is the foundation of obedience.” (Duties of the German soldier, Point 4).

“In the school of the army, the youth is to learn not only obedience but, by doing so, is to acquire the prerequisite qualities to take command later on. He must learn to keep silence, not only when justly reprimanded, but must also learn, if necessary, to bear injustice in silence.” (Hitler, Mein Kampf, p. 459).

Virile discipline and obedience as foundation of the NSDAP. Mute, with clenched teeth, SS men on propaganda marches pass through hooting mobs of Reds. In meetings silently listening to the raging of the Reds.

Obedience without asking for the reason why. Faith in leaders must be so strong that every man is convinced that the leadership is the right one. Impossibility in most cases of explaining motive for an order in advance. Opponent might otherwise recognize plan in advance. In 1932 it was incomprehensible to many National Socialists why the Fuehrer did not participate in Papen-Schleicher government. The Fuehrer was right in the end. Bear in mind today, do not ask, why the Fuehrer spares this or that enemy, why necessary steps are not taken here or there. The Fuehrer has his weighty reasons.

Therefore blind and trusting obedience, so long as nothing obviously illegal or immoral is demanded.

Not slavish obedience, but the compliance of a free man based on his own free resolution.

The obedience of the Nordic man is established on mutual faith. Therefore, allegiance to unknown superiors does not exist for us (Freemasons!)

For the German there is no other obedience surpassing that of his allegiance to the Fuehrer of his people.

28 March 1935 (Manual 2)

[On back of document] Correctness of photocopy certified.

Nuernberg, 9 August 1947

[Signed] DR. HAENSEL,
Attorney at Law

EXTRACT FROM TESTIMONY OF DEFENDANT POHL *

EXAMINATION

* * * * *

DR. FRITSCH (counsel for the defendant Baier) : Now, Witness, on direct examination you stated that you very strictly observed

* Complete testimony is recorded in mimeographed transcript, 16, 19-23, 27-29 May, 2, 8 June, 25 August, 1947.

Fuehrer Order No. 1,¹ that is to say, you told your subordinate nothing of orders or decrees, no matter whether they were secret or not. What you told them was only in as far as that concerned your subordinates themselves immediately. In this connection I wish to discuss the question of the leadership principle, the Fuehrerprinzip. Would you please tell the Court briefly what the Fuehrer principle meant to Germany?

DEFENDANT POHL: The Fuehrer principle was a basic law of all political and economic matters. Its most prominent mark perhaps was that the man at the helm of a political, or any other organization, was the one who was solely in charge of that organization and was solely responsible. His orders and instructions had to be complied with by all, and it was he who above all was responsible for the strict observation of Fuehrer Order No. 1. Everybody, when the matter concerned was a secret one, must be informed of it only inasmuch as he required it to carry out his share in this matter. Within his own activity everyone was responsible himself. That responsibility, however, rested finally with the Fuehrer who was in charge of the organization. He alone represented the organization towards the outside and to people above him. That roughly is the essential thing.

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EXTRACT FROM THE TESTIMONY OF DEFENSE WITNESS
SS GENERAL KARL WOLFF ²

CROSS-EXAMINATION

* * * * *

MR. ROBBINS: Now, Witness, we have heard quite a lot in this trial about the Fuehrerprinzip. I think you are in a very good position to tell us just what that principle was.

WITNESS KARL WOLFF: May I point out to you that the last parts of the translation have been most distorted, and therefore I couldn't quite answer the questions. Maybe you could have them repeated slowly and clearly.

Q. Are you familiar with the Fuehrerprinzip?

A. Yes, indeed.

Q. I believe you are in an excellent position, General, to tell us the meaning and the significance of that principle. Would you do so?

A. Yes. The Fuehrer principle embodies entire responsibility on the part of an individual person and has far-reaching possibili-

¹ Hitler Order is quoted in Document Sommer E/33, Sommer Defense Exhibit 31, on pp. 809 to 810.

² Complete testimony is recorded in mimeographed transcript, 3-5 June 1947, pp. 2090-2206.

ties, of decision. A reasonable leader is a leader personality, conscious of his highest duties as a trustee for his people, of the unit he leads, and who also, in the case of increasing successes will remain within his boundaries. It is a most wonderful thing which one can prove by means of historical events, not only in the past, but also in the present.

Q. General, I just want a factual description of the principle, and I don't care for a characterization of it. Just tell me how it operated in practice.

A. The German Fuehrer principle, as far as I am able to describe to you the answer to such a difficult question off-hand, which is really a doctor's thesis, continued up to the Sudeten German case, and it meant to us in Germany an excellent and successful function since generally speaking upon the seizure of power we had seven million unemployed.

Q. Excuse me, I am afraid you don't understand my question. Just tell me how the principle operated, what it meant in practice, what it meant in terms of responsibility of the subordinates to the superior. I don't care to know about whether it was successful or unsuccessful. Just give me a factual description of the principle.

A. The principle would emphasize an individual personality within the framework of a state or its armed forces who carries full responsibility before his followers and subordinates.

Q. And it meant absolute responsibility and absolute power, is that right?

A. It required absolute responsibility, yes, power, yes, and the possibility to transmit one's will into facts.

Q. Would you say that the entire Reich Government was organized on this principle?

A. I know that the Reich Government was based upon that principle, yes.

Q. And would you say that the SS was organized on that principle?

A. Of course.

Q. And the Reich leadership of the SS was organized on that principle?

A. The Reich Leader SS was also, of course, based upon that principle, yes.

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EXTRACTS FROM TESTIMONY OF DEFENDANT GEORG LOERNER *

DIRECT EXAMINATION

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DR. HAENSEL (counsel for defendant Georg Loerner): May it please the Tribunal, I just want to quote quite briefly to rectify the sources of this truth. "Don't bind the mouth of the ox who is thrashing". And that is in the Book of Moses 24/4 and I also quoted from First Timothy 15/18 and in the First Corinthians, 9/9. That means 3 times.

We will now pass to the last selection of my questioning, which I announced under the heading, "What did you not do?" Is it permissible to enter such a question in a penal trial? Is it possible to become guilty by omitting to do something—by not doing something?

PRESIDING JUDGE TOMS: Dr. Haensel, don't you think that is probably a question of law for the Court to answer, rather than the witness?

DR. HAENSEL: No, if your Honor please, by this question I only wanted to lead the witness to come to his own omissions and to say whether he himself has omitted something important. That's the question I wanted to ask him.

PRESIDING JUDGE TOMS: Don't you think still that the Court should determine that rather than the witness?

DR. HAENSEL: Whether he has become guilty, of course, that is for the Court to decide, but whether or not he is convinced that he has omitted something that he could have done—that, of course, is a question for the witness himself, isn't it? Perhaps I might ask him, did he fail to execute orders which were given to him.

PRESIDING JUDGE TOMS: That's all right.

DR. HAENSEL: Something in that line, at least.

Would you please explain to the Tribunal whether as a soldier, because after all you felt as a soldier, whether you executed the orders you were given or whether you can reproach yourself for failing to execute orders?

DEFENDANT GEORG LOERNER: I know that one becomes guilty if one doesn't do something which one ought to do, especially as a soldier, if one doesn't execute an order, but I am not conscious of any order which I received which I didn't execute.

Q. However, you are reproached with the fact that because you executed orders you became coresponsible in criminal acts. Do you know that it is a crime to execute such orders?

* Complete testimony is recorded in mimeographed transcript, 17-20 June, 4 September 1947; pp. 2916-3151 and 7423-7424. See also extracts from testimony of Georg Loerner, on pp. 334-345, 553-555, and 744-752.

A. I never consciously executed a criminal order, and I never received an order which was directed against the life or the freedom of a human being, except in the First World War when I was a soldier in the front line when I had to shoot, but otherwise I never had orders to execute people or to seize foreign property.

Q. Well, let's deal with this question of foreign property for a minute. But it is doubtless, after all, that you had to deal with such property and that you had to know at least that it had been taken away from their owners against their will. I mean, after all, you must have known that much.

A. There again, I have to say "no." At least as far as the period of peace is concerned and the first two years of the war. Only when the lack of raw materials and food became so strong; only when our military defeats at Stalingrad took place; when the Americans landed in Morocco; and when Africa was lost; then, for the first time, I received property for disposal which I had to suppose was looted property or confiscated property.

Q. You spoke of seized property or confiscated property. In other words, you disposed of property which you yourself didn't seize, which, however, was seized by other agencies. Could you account for such property which had been brought together, by violence and didn't you think of that at that time—didn't you have doubts?

A. Of course, I had had doubts and I much rather wouldn't have had anything to do with these matters, which had not been yielded voluntarily by other people. However, the situation of our people at that time forced us to it. In all fields we had bottlenecks and especially in the fields of textiles. Our soldiers didn't have everything they needed. We had to take it as it came in and from where we could get them. At that time I assumed that the property had been seized by military necessity; at least, that was the way it was presented to us at that time, and I had no possibility whatever to doubt that it was military necessity.

Q. Witness, the military necessity, of course, is a conception which has a lot of legal importance. After all it's written in the Hague Convention. But this military necessity could only have conferred a right to submit all civilians who live in the state or in the field of power to the seizure of their property and not only the Jews. This special treatment of the Jews is the question involved here. What do you think of that?

A. Well, you are quite right, Doctor, but I am convinced, too, that the totalitarian state at that time did not only seize Jewish property, but also the property of the whole German people, and put it into the service of the war, without any exceptions and used it for itself. The conscription made it a duty for every Ger-

man to sacrifice his life for the war, and the war-effort law made the same with property. The savings which the Germans brought to the savings banks were used without restriction by the state for war. Clever methods were instituted with which the last reserves were dragged out of the people. I remember the various collections and drives, wool collections, the clothing collection, and whatever it was. We were told and we heard all the time on the radio and in the newspapers that the Jews would not yield anything voluntarily, and constantly one spoke of enormous hoards of stocks which had been found in the ghettos. I, at that time, had no possibility to doubt these facts. I imagined that from absolute necessity of war these materials had to be seized whenever found and I had no possibility, as I said, to protest against this kind of warfare and take any position against it.

Q. But, if you had known in reality everything you know now, how much misery, and how much blood and tears were connected with part of these materials, what would you have done then?

A. I certainly wouldn't have taken any part in it. What I would have done in detail, that of course is very difficult for me to explain today, but if I had known how much blood was on those clothes and things, I certainly wouldn't have taken part. These goods which were placed at my disposal, constituted for me looted property, looted for military necessity.

* * * * *

Q. Well, let's take some concrete cases. Document NO-1563 has been submitted and that is in volume 14 on page 56 in the German text, volume 14, as I said, and page 56 of the German text and it is Prosecution Exhibit 302.

Your Honors. It is on page 59 in the English document book NO-1563.

PRESIDING JUDGE TOMS: It is Prosecution Exhibit 392?

DR. HAENSEL: Yes, 392, your Honor.

This is headed "Final Conference on Balance Accounts." From that document it seems that you were to have taken part in the balance conference of office W of June 1944. Page 59 should be right, your Honor. It is a conference on balance accounts of office W. According to your knowledge the combined enterprises, which were under office W belonged to such enterprises which employed inmate labor, and pay for this work was not channeled to the inmates but to other agencies, and these agencies had a profit for this work. Isn't that an inhumane way of treating the people?

DEFENDANT GEORG LOERNER: In this respect I have to point out that in these conferences on balance accounts concerning inmate work, there was no mention made of inmate labor. They

were merely formal and very dry talks of the balance which had been established already, and only figures were submitted. But apart from that, at that time, I had the impression that as a consequence of the emergency existing among the German people it was necessary to use every labor and to use it to its fullest extent. The most important at that time was that work was done, that the production was being stepped up, because after all this was not a normal war any more, but a total war, and a total war which used the people to the last man and to the last woman. The money at that time was not very important any more. The only important thing was the raw materials and the labor. The finances was a second rate question.

PRESIDING JUDGE TOMS: Witness, do you think that total war involves using the last man and the last woman of other countries?

DEFENDANT GEORG LOERNER: No, your Honor. I don't think so.

Q. I suppose a nation can decide for itself whether to use the last man and the last woman and the last pfennig in waging war, that is its own business. The accusation here is that the men and women and money of other countries were used to wage total war for Germany. Do you see the difference?

A. Yes, your Honor, I do see it.

Q. Do I understand you to mean that it is all right, or that it is justifiable for a nation to take anything from another country in order to wage war itself. You don't mean that?

A. Your Honor, I did not mean to say that; but what I meant to say was that only at that time it was presented to us as extreme necessity in war, to use the means of the other countries for the aims of warfare, too.

Q. You mean that the situation was desperate, and any means for conducting the war was justified?

A. Well, that was the way it was explained to us at that time.

* * * * *

D. Selections From the Testimony of Defense Witnesses and From Defense Affidavits Concerning Secrecy

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Sommer E/33...	Sommer Ex. 31..	Affidavit of Paul Barnickel, Reich Public Prosecutor, quoting Hitler's "Secrecy Order" of 25 September 1941.	809
Georg Loerner 27	Georg Loerner Ex. 24	Extract from testimony of Dieter Wisliceny before a Commissioner appointed by the IMT, 5 June 1946, on secrecy concerning "Final Solution of the Jewish Problem".	810

Testimony

Extracts from testimony of defense witness Bickel.....	812
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TRANSLATION OF DOCUMENT SOMMER E/33 SOMMER DEFENSE EXHIBIT 31

AFFIDAVIT OF PAUL BARNICKEL, REICH PUBLIC PROSECUTOR,* QUOTING HITLER'S "SECRECY ORDER" OF 25 SEPTEMBER 1941

Copy

AFFIDAVIT

I, Dr. Paul Barnickel, at present interned by the Americans in Nuernberg, have first of all been reminded that I make myself liable to punishment, if I make a false affidavit. I declare in lieu of oath that my deposition is the truth and was made in order to be submitted as evidence to the Military Tribunal No. II at the Courthouse in Nuernberg, Germany.

I. My last official position was that of Reich Public Prosecutor at the Reich Supreme Court of Justice in Leipzig. Hitler's well known decree in which he orders that matters be kept secret [Geheimhaltungspflicht] by officials was posted on the wall of my office, as well as in all German government offices. When I was in my office for the last time in the fall of 1945 I took the order with me because of its historical interest. Late that fall I left the Russian zone in order to return to my home, to Bavaria. Since I took the possibility into account that the decree might be taken from me when crossing the border, I did not take it with me,

* Defendant in case of United States vs. Josef Altstoetter, et al., vol. III.

but did take it down in shorthand on a small piece of paper which I took with me in my purse. The following copy corresponds to my shorthand notes.

II. Basic order of 25 September 1941:

1. No one: no office, no official, no employee, and no worker may be informed of a matter which is to be kept secret, if it is not absolutely necessary for him to have cognizance of it for official reasons.

2. No office, no official, no employee and no worker may have any more information about a matter which is to be kept secret than is absolutely necessary for the execution of *his* assignment.

3. No office, no official, no employee, and no worker may be informed of that part of the matter to be kept secret, which pertains to him, any sooner than is absolutely necessary for the execution of his assignment.

4. The thoughtless forwarding of decrees, orders and information, the secrecy of which is of decisive importance, because some general distribution key is in use, is hereby prohibited.

Adolf Hitler

Nuernberg, 13 June 1947

[Signed] Dr. Barnickel
(Dr. Paul Barnickel)

TRANSLATION OF DOCUMENT GEORG LOERNER 27
GEORG LOERNER DEFENSE EXHIBIT 24

EXTRACT FROM TESTIMONY OF DIETER WISLICENY BEFORE A COMMISSIONER APPOINTED BY THE IMT, 5 JUNE 1946, ON SECRECY CONCERNING "FINAL SOLUTION OF THE JEWISH PROBLEM"

* * * * *

Q. You have based your testimony during your examination on 3 January on a chart which bears different names. Did all the persons named [on the chart] know about this special order?

A. I cannot say so for sure. I assume that the majority of them knew about it. If you will show me the chart, I can tell you with which persons I discussed it. (The witness looks at the chart.) I remember that in autumn 1942 a meeting of Eichmann's Department on business routine took place in Berlin. Pursuant to this meeting I ascertained that Eichmann had discussed this new order with several of his staff. I can now indicate the names of those people from the chart of whom I know that they were initiated into this order.

Q. Yes. Please do.

A. Hauptsturmfuehrer Brunner, Sturmbannfuehrer Hans Guenther, Hauptsturmfuehrer Otto Hunsche, Hauptsturmfuehrer Franz Nowak, Untersturmfuehrer Hartenberger, Hauptsturmfuehrer Dr. Seidl, Hauptsturmfuehrer Dannecker, Obersturmbannfuehrer Krumej and Hauptsturmfuehrer Burger. These are the men whom I know were initiated by Eichmann either in autumn 1942 or later.

Q. Did Eichmann place very special personal confidence in these people, exceeding the confidence customary between a superior and a subordinate?

A. Yes. He was on familiar terms with most of these people.

Q. Can you now tell me what special measures were taken to keep this order of Eichmann's secret?

A. It was not permitted to make any written records about them; and then Eichmann, in the discussion I had with him in August 1942 and also later, told me of a number of measures which he had taken in order to keep these things absolutely secret. He mentioned that he was maintaining Theresienstadt for this reason in order to be able to take commissions of the International Red Cross or foreign diplomats into the Theresienstadt camp, to make it appear as though the standard at Theresienstadt was the normal standard of accommodation for the Jews. Besides, he had thought out a special system of post cards and letters, whereby he believed he could mislead the public. The Jews brought to Auschwitz or to other extermination camps were forced, prior to being murdered, to write post cards. These post cards—there were always several for each person—were then mailed at long intervals, in order to make it appear as though these persons were still alive. Moreover, he invited various press representatives to Auschwitz. I myself once accompanied a German journalist from Slovakia on a trip to Soshoviez and Auschwitz. It was absolutely impossible on these tours of inspection to gain the impression that Auschwitz was an extermination camp.

Q. Did you already know at that time that Jews were being exterminated there?

A. No. This visit was before the time when Eichmann initiated me into the fact.

Q. A short time before?

A. Yes, a short time before.

It is hereby certified that the above is a verbatim and correct copy of the document in question.

Nuernberg, 23 June 1947

[Signed] Dr. Haensel

[Typed] Dr. Carl Haensel

Counsel for the defendant G. Loerner

EXTRACTS FROM TESTIMONY OF DEFENSE WITNESS BICKEL *

DIRECT EXAMINATION

* * * * *

DR. HOFFMANN (counsel for the defendant Scheide): Witness, when were you arrested for the first time?

WITNESS BICKEL: In September 1935. From that day on I was under arrest until February 1945, and I was finally liberated on 3 May 1945.

Q. Witness, what did you know about the concentration camps from 1933 up to the time when you were arrested?

A. I only knew what I read about them in a book in Zuerich in 1934. The name of the book was "The Hell at the Edge of the Woods of Esterwegen." That was the camp where I finally ended up myself.

Q. Would you have had a possibility to know anything about the concentration camps without your having been abroad, in Zuerich and Switzerland, that is?

A. Probably yes, at least after 1935, it would have been possible since from our point of view, that is, from the point of view of the concentration camp inmates, we believe that actually, if the German people had wanted to, they could have kept their eyes somewhat open. They would have been able to see. They must have seen. The story I always have to listen to now is: "I didn't know anything and I didn't see anything." That is absolutely untrue. One could only say that the German people did not want to see anything, and they thought it much more simple to keep their eyes shut. If I think it much simpler to keep my eyes shut, then I shut my eyes. Then I simply can't see. They claim they couldn't see. Naturally, because they had their eyes closed.

PRESIDING JUDGE TOMS: Don't you think they kept their eyes and ears shut because of fear?

WITNESS BICKEL: No, definitely not. Out of fear you wouldn't have to close your eyes in order not to see. I can keep my mouth shut after I have seen something because I am afraid, but at the moment when I close my eyes I still don't know what I am closing my eyes for, but the moment I know that I am shutting my eyes because of something that might scare me, I already saw. Then I can't say I didn't see anything.

Q. Well, perhaps I was too figurative. They didn't read newspapers and they didn't listen to the radio. That is what I mean by closing their eyes and ears. Do you think they did that because they were afraid?

* Complete testimony is recorded in mimeographed transcript, 31 July, 4 August, 1947, pp. 5881-5512.

A. You mean that the people did that because they were afraid?

Q. Because they were afraid.

A. The concentration camps were so numerous in Germany; near every large city there was a concentration camp, and again and again there were connections between the inmates and the population. You had on one hand the connection between inmates in camps and the population on the other side, and everyone could notice those things who did want to notice them. In Oranienburg there were tens of thousands of inmates. Nearby you had Berlin. In Neuengamme you had 10,000. Hamburg is right near there. Everyone of them must have seen something at sometime. Whoever saw it must have passed the story on. Then in every civilized state of the world, with the exception of Germany, of course, there would have been a disturbance, which would not have been occasioned by the heart of human beings, but rather it would have been a disturbance due to the feelings of humanity in every human being, and due to this disturbance of the human feelings on the part of a human being it would have been their duty to see what was to be seen. But it was much simpler not to see, and the "blessings" of the Third Reich could be enjoyed much better by the German people while they had their eyes shut. It was much simpler in the evening to go to the KdF meeting without having seen anything. It was much better to wear one's decorations and the uniform while not seeing anything. However, it still should have been their duty to see what was going on.

DR. HOFFMANN: Witness, could one go to Sachsenhausen, for instance, and walk through the gate of the concentration camp and visit it?

WITNESS BICKEL: One of the most important prerequisites was that every connection was interrupted between the inmate and his family.

Q. In order to come back to your description, Witness, how was it that a person could possibly find out what was going on behind the walls of Sachsenhausen if one could not enter, particularly since you didn't have any connections with your family?

A. Let me give you two examples, from a group of many. In May 1940 the death figure in Sachsenhausen was more than the crematorium could possibly take care of. Thereupon an auxiliary crematorium was used in a nearby city. I think it was Fuerstenwalde.* The boxes with the dead—black, rough boxes—were loaded on hired trucks, and such a truck with the trailer full of dead inmates turned over. It took quite a while to block off that road.

* Witness evidently is referring to Fuerstenberg, approximately 50 miles north of Berlin, the location of Ravensbrueck concentration camp.

In the meantime, people saw it. That should have acted like an atomic bomb on the feelings of the German people because they had seen this. And with the same zeal that Hitler's victories was putting spirit in the hearts of Hitler's followers, this should have gone to the hearts of the German people. Let me give you another example. When we came from Sachsenhausen to Neuengamme, we had to get out at the railroad station of Neuengamme and walk through the village there for a whole hour. Everyone of the people saw it. From Neuengamme we had to take care of some canal there by the name of Dove[sic]-Elbe. That place of work was approximately one hour and 15 minutes to one hour and 30 minutes from our camp. We had to walk that distance. In their desperation some of our comrades would commit suicide rather than go to work. Sometimes you could find 3 or 4 inmates on the road from the concentration camp to the working place. These inmates had broken through the line, or had fallen out, or had broken through the chain of guards, and these guards shot them. They committed suicide this way. All those things were seen by the population there. That was in the morning, but they also saw our return when we came back from our place of work. I don't see how such a return march could possibly pass unobserved in other countries such as France or in Sweden without speaking, of course, of a highly democratic country like America. A long column of one thousand inmates is jogging along the road. All men are tired. At the end of the column we have 30 or 40 pushcarts. We have one dead inmate on each pushcart pushed by an inmate half dead himself. The head of the dead inmate is banging against the wheel of the pushcart. The SS men spur on the inmates; the SS men let those bloodhounds loose on the half-dying inmates in order to spur them on; teams of four men carry inmates who are about half dead. Nothing but a long mournful column, day after day, for one hour and a half. On the left and right side of them, were the German people of culture, namely, the nation of Goethe. Now some German comes along, or someone else, and tells me that this one single picture would not have been enough to react like an atomic bomb on the feelings of their hearts. But it is much simpler not to see anything. It was much more clever not to say anything. It was too easy not to see anything.

Q. Witness, with regard to the conclusions which you reached about such a long column of human beings, and the people dying left and right, for instance, when you described the truck which tipped over, and you say this should have acted like an atomic bomb on the feelings of the German people, I would like to discuss three more things with you: first of all, you said that in Germany every large city had its concentration camp. I don't believe that

was the case at any time, but if so, it must have been later on, that is, during the last few months. Shall we say from 1943 to 1945 and after that?

A. Yes, you are quite right. The concentration camps were not very numerous from 1933 on, but we could really say 1941. That was the starting point when, on the average, there was no German, except of course, if he was in a lunatic asylum, who did not know anything about the existence and character of the concentration camps. I was a person who was amongst the inmates and I can really tell you about it. And with the exception of those few who were sympathetic for humanitarian reasons, the mass of the German population found it too nice and agreeable to follow their great Fuehrer by looking upon us inmates as dirt on the road.

Q. Witness, here again I want to come back to the facts. You described your story in 1940 when a truck turned over full of the dead inmates. Where was that?

A. That was in a village on the road between the concentration camp Sachsenhausen and the crematorium. I don't remember very well whether it was Fuerstenwalde or something similar. That was the place where the concentration camp Ravensbrueck was.

Q. Not in Berlin?

A. No. Not in Berlin.

Q. Don't you think, Witness, that apart from this one exception, do you think if a truck turned over in Berlin in the middle of a large road, some thoroughfare, don't you think it would have taken the radio and newspapers to make such an occurrence known all over Germany?

A. No. That is absolutely out of the question. Within a few days we knew in Neuengamme what was going on in Mauthausen. The rumors had begun. This great man Goebbels proved by his rumor propaganda, that a rumor propaganda from another side but ours could have been successful. It is surprising that it can't be explained very well, how quickly news which might be of decisive importance can be passed on by mouth to mouth and locality to locality. I only gave you one example before, but I could extend that example and give you dozens of them. But I am not doing this here in order to make reproaches. The only thing is that we have to explain this phenomenon known as the SS. As I said this morning, without the attitude of the German people to help the SS by subordinating themselves to the SS, nothing would have happened.

Q. Witness, you stated that you also had a rumor propaganda and that you could have started one. It is to be assumed, isn't it, Witness, that you did that?

A. Yes. Of course, we did that.

Q. Don't you think that this propaganda was stopped for the very simple reason that due to the fact that the rumors which you passed on also came back to you, isn't that a fact?

A. It takes some courage to carry on a rumor propaganda, you see, Mr. Defense Counsel, and that was the thing that the German people were lacking. There was a lack of courage. This little bit of courage which was necessary was replaced by the German people by just taking things easy.

Q. Witness, I am not fighting your statements. I just can't follow your line of thoughts about your statement that according to what you told us, every German should know about the things going on in the concentration camps. Isn't that a subjective idea that you have from the inside of the concentration camp? Don't you think it is, Witness?

A. I never did say, and I am controlling myself very much to say that the Germans were supposed to know everything, but I state, and I am asserting that, and I am under the influence of objectivity. I believe that within every German life, that is between 1936 and 1945, there was at least one little thing that was heard. This little thing should have started a fire of holy will power, and that feeling should be found out there today [pointing toward the street].

* * * * *

Q. Witness, I would like to ask you two more reasons now which I want you to check on, and tell me if that is your opinion about those points and if not, please change it. There were soldiers who, already in 1939 had been conscripted into the Wehrmacht and who were fighting in the front lines. There were some soldiers who received leave once in a while. How do you think that they found out about what was going on in the concentration camps?

A. We had also Wehrmacht members serving as guards in the concentration camps. We had air force men, naval men, and infantrymen. I already explained this morning how this spirit worked on these SS people the moment they passed the barbed wire fences. That applied to the Wehrmacht members also. They were not better and they were not any worse.

Q. Witness, the German Wehrmacht had approximately ten million members. I don't know if that figure is correct. Now, if five or six thousand of them—which is just a small number which I just took out—were also used as guards in the concentration camps, and then had knowledge, how do you think that these five or six thousand could inform all the other ten million about the whole thing. That couldn't possibly get through, do you think, Witness?

A. For us there was no reason to examine and to weigh between the two as to how much the Wehrmacht knew about it, about the treatment which we suffered, and if it agreed with the treatment which we were receiving. All we knew was that the Wehrmacht agreed with the madmen in Berlin. We knew that the Wehrmacht was doing everything—even dying—in order to be able to support the powers in Berlin. But we also knew that the Wehrmacht was sending men from its own rank into the concentration camps when they had done something against the National Socialist character of the Wehrmacht. It was already in '38 or '39 that I met quite a few comrades of the "Special Department Wehrmacht." We called it "SAW," amongst ourselves. I saw some of these boys die; I saw them suffer and die. Those were the people who were sent to the camp by the Wehrmacht because of opposition to the Fuehrer.

Q. Witness, you further testified that it was much easier to participate in KdF [Kraft durch Freude—Strength through Joy] programs than to show humanitarian feelings, I mean it was simpler, wasn't it?

As far as I gained knowledge of all those things in these trials, the concentration camps became horrible from 1940 to '41 to 1942. Don't you think that a part of the German population already had its own troubles and its own worries so that quite a few things didn't penetrate as far as they were as it would have before? Don't you think so?

A. I don't believe that the Germans had such a lot of trouble. I didn't see their trouble. I only heard about it from the papers and when we sometimes listened to the radio—we listened to it once in a while. All we heard was the number of pleasures they had, the number of joys which the German people had in the early days of the war. And we found out that only one-thousandth of one-thousandth of all this pleasure and joy was turned toward us. If they had been able to do that we would have been able to save many, many who died.

Mr. Defense Counsel, I hope that maybe you don't think that I am acting too subjectively, but, after all, the wound is too deep and it is still fresh; it has been only two and a half years. I don't know if you should ask me any further questions in this field, Mr. Defense Counsel, but we have our own opinion. I came here with the real will to be as objective as possible, and I know that there is one man sitting in the defendants' dock who, as seen from my small point of view, is excepted from the entire hate which we have for all these men. He is the "white sheep."

Don't forget that if the Allies wouldn't have taken over the question of the SS and the concentration camps, and if they would

have left it to us, then there would have been no trial; and, with the exception of this one defendant who is the "white sheep" here, Mummenthey, none of the defendants would be alive today. * * * If the Allies wouldn't have been here, then I am sure that our subjective hate would have taken care of all those people in a summary manner. And I am sure God would have forgiven us. It is our duty. But those of us who were in the camps have the rights and the duty to comply with the orders on the part of the Allied forces and to be objective about it.

A Human being is a human being, and whoever says he is more than a human being is a dog. All I can tell you is that objectivity, after such long troubles and pain, is absolutely difficult—very difficult.

Q. Witness, I hope you didn't think that I didn't want to believe you, but, after all, that is the whole idea which prevails here, namely to put certain arguments before you. Those are the rights we have in this Tribunal.

A. Yes, absolutely, you can avail yourself of this. I am speaking about the collective guilt of the German people as compared to the collective guilt of the German soldier.

DR. HOFFMANN: No further questions.

* * * * *

DR. GAWLIK (counsel for defendants Volk and Bobermin):

Witness, you have stated that you could not believe that the German people had suffered so much during the war, is that correct?

WITNESS BICKEL: No, not quite. I was talking about a certain period of time. I referred to the period from 1941 to 1943. After 1943 the German people may have had many worries, and perhaps these worries can be compared to the worries we had about our self-preservation. However, as long as the German people were able to enjoy so many pleasures, and as long as—

Q. Witness, I don't want you to give me reasons. Just answer this question with yes or no. Don't take too much of the Tribunal's time. I understood you to say that you do not believe that the German people suffered so much until 1943. Isn't that correct?

A. Yes. That is correct.

Q. Do you call it a worry if women are mourning for their men, when children are mourning for their father, and when parents are trembling for their sons who are at the front? Answer this question with yes or no.

A. When you say that I shouldn't take up so much of the time of the Tribunal—

Q. Witness, answer.

A. This question can be answered with no. However, only then—

Q. Thank you, that is sufficient.

PRESIDING JUDGE TOMS: You can't cut the witness off, although I don't want to encourage him to speak unnecessarily, but if he can't answer the question by a simple no, he has a right to answer it in his own way. I don't see that the topic you are discussing has anything to do with the indictment. I presume that we can take it for granted that when any country is at war, Germany or any other country, that there is plenty to worry about.

DR. GAWLIK: Your Honor, here we are dealing with a question which my colleague, Dr. Hoffmann, has already mentioned. We are discussing the question of knowledge here, and the witness has stated that the German people had knowledge by saying that they did not have any worries.

PRESIDING JUDGE TOMS: We aren't trying the German people for having guilty knowledge. Let's stick to the indictment.

DR. GAWLIK: Yes, but after all, since the German people had knowledge, as alleged by the witness, then, of course, it can be concluded that the defendants had knowledge also.

PRESIDING JUDGE TOMS: Yes, but you are talking about worry. You are talking about worry.

DR. GAWLIK: The witness has just given us his reason, and he has answered the question of my colleague Hoffmann whether the German people, as a result of the many worries which they had, did not pay any attention to what happened in the concentration camps, and he answered that in the negative.

PRESIDING JUDGE TOMS: Go ahead; go ahead, and question him.

DR. GAWLIK: Do you consider it a worry when the people go to bed at night and don't know whether they will be killed by a bomb during the night?

WITNESS BICKEL: I have a counterquestion. Do you consider it a worry—

Q. You can't ask me any counterquestions. You are to answer my question with yes or no.

A. Yes. That worry exists without any doubt. However, please don't interrupt me again. Let's discuss the matter here in detail, and let's make it comprehensible to the Tribunal. Just think that every second you have this torture in front of your eyes, and then look at the worry that the German people drew from the war which they had intended and which they wanted. We didn't want a total concentration camp, but one day from the loud speakers in the concentration camp Neuengamme I heard the question of the Fuehrer, "Do you want a total war?" and here again I hear the millions of Germans cheering, "Yes, we do want a total war."

Q. That is sufficient, Witness. You see, as a defense witness you are not here to give speeches, but you are only here to answer my questions.

A. I have answered your question.

* * * * *

REDIRECT EXAMINATION

DR. FROESCHMANN (counsel for the defendant Mummenthey) :
Witness, I want to put to you a few brief questions. Did you, when you were in your concentration camp, hear anything about the air raids on Dresden, Hamburg, and our ancient Nuernberg?

WITNESS BICKEL: We heard about these air raids, the ones on Hamburg we saw and experienced ourselves. We experienced them inasmuch as we had to salvage the corpses from Hamburg, for which our commandant received the Iron Cross 1st Class, I believe.

Q. What were the means you had to keep informed about what was happening outside?

A. We received newspapers for our own money, the Reich Unity newspaper. We had our wireless connections which we could use sometimes. Of course, we also had our secret radios and we listened to BBC and Allied soldiers stations. We had first-rate sources of information from our own initiative.

Q. These were secret radios which you had in the camp?

A. Yes. We had secret receivers and transmitters.

Q. And from there you gained your knowledge about what was going on outside?

A. Yes. Apart from the fact that people would tell us things and we would tell people things. There was an exchange of ideas and facts going on because from that time onwards inmates worked among people. I said before that the whole camp went out in so-called "construction brigades" to dig up the corpses after air raids and the people were kind and receptive after we dug up one of the corpses of their relatives. They talked to us and were receptive to what we told them, until the next propaganda speech restored their former peace of mind again.

Q. Therefore your knowledge is confined to a particular sector among the German people?

A. No. Our knowledge went quite beyond what the German people themselves knew because we had unlimited—in our eyes unlimited—possibilities of receiving news by radio.

Q. You therefore had means which a large part of the German people did not.

A. They would have had the same means had they had the same will as we had.

Q. That is your assumption, a quite subjective opinion, is it not?

A. Yes, quite so.

Q. What is the truth? What is the human being?

A. Yes. One could ask that question.

Q. Well, you could say where was the truth and what is the truth. Do you understand—

A. I am afraid we are losing ourselves in philosophy.

Q. Do I understand you correctly, that you, on the basis of the communications and experiences, you formed the impressions of which you have given us this picture here?

A. Yes. I have endeavored to speak objectively, such as we have learned from the Allies, and which is the first condition if you want to be democrats.

Q. Witness, one of my colleagues asked you how it came about that you were examined before this Court, and you told us that at the time you wrote to the prosecution and to Mummmenthey's defense counsel, whose name you did not know, that you were at their disposal as a witness.

A. It is quite correct. It is only for the fifth time I am telling you this.

Q. Yes, quite so. All I wanted to state was that I heard from you in the course of this year that you were quite ready to appear as a witness, and that you also told me that you had also informed the prosecution of this.

A. Yes. I don't think anybody could be fairer. I don't think that the SS would ever have been quite so fair as we have been to them.

Q. Is it also correct, that even then, and not only under the impression of conversations, you emphasized that you regarded it as your duty to tell the Court anything and everything which might be favorable to Mummmenthey?

A. If you want to describe facts, you cannot be influenced either in the good or the bad sense of the word. I don't think that you have gained the impression that any good or bad influence can be exerted on me. Facts are so tremendous that only history will form the proper picture. No influence can be exerted in this or in another way.

DR. FROESCHMANN: May it please the Court, I have no further questions to this witness.

VI. CLOSING STATEMENTS

A. Extracts from the Closing Statement of the Prosecution *

MR. JACK W. ROBBINS: The United States charges these defendants with responsibility for the atrocities committed in the administration of the concentration camp system of the Third Reich.

The history of these vile institutions is the biography of these men. Himmler brought the defendant Pohl to his Verwaltungsamt SS [SS Administrative Department] in 1934, and from that date Pohl's jurisdiction over concentration camp affairs increased steadily until he became chief of the entire system. Pohl took over construction matters and the SS enterprises in the first concentration camp in Germany at Dachau, and so distinguished himself that by 1936 he was handling the clothing, finance, auditing, and construction for all concentration camps and for the Death Head units which were used for guarding them. In 1938 he added the stone quarries at Mauthausen and Flossenbuerg. In 1939 a labor allocation office was added, and in February 1942 he assumed complete jurisdiction for the administration of all concentration camps and continued as their supreme chief until the collapse.

Every minute, every aspect of the inmates' lives was regulated by Pohl and his associates. Such food, clothing, medical care, and billets as the inmates had, these men furnished. As the power to tax is the power to destroy, so the power to furnish includes the power to withhold. They allotted inmate labor and were themselves the largest users of it. The concentration camp commandant, the guards, the camp doctors, the labor allocation officer, the administrative officer, were under their control.

Responsibility for the administration of the system cannot be shoved up higher than this. In the dock sit Pohl and his office chiefs. They are highly skilled administrative officers—the brains of the concentration camp organization. They made it operate and operate successfully, from the Nazi viewpoint. They were high-ranking SS men, career men in the administration of the concentration camp system. Under the aegis of these defendants, every conceivable crime was committed—the systematic commission of atrocities in concentration camps, the utilization of slave labor under brutal and murderous conditions, the extermina-

* Complete closing statement is recorded in mimeographed transcript, 17 September 1947, tr. pp. 7565-7637.

tion of Poles, Jews, and Russians and those who were no longer fit for work, the razing of the Warsaw ghetto, and the confiscation of property on a gigantic scale. Pohl and Frank understood what Himmler meant when he told them and his other SS generals at Poznan: "Most of you know what it means when 100 corpses are lying together, when 500 lie there, or when 1,000 lie there. To have lasted through this and—to have remained decent fellows has made us hard."

Technically, the WVHA was organized on 1 February 1942, but actually it was a continuation of Pohl's Verwaltungsamt SS which was organized in 1934 and later, in 1939, became the Main Offices, Budget and Buildings, and Administration and Economy. One month after the WVHA was formed, the Inspectorate of Concentration Camps was incorporated into it as Amtsgruppe D. The WVHA was merely the last of a succession of administrative offices headed by Pohl and staffed by these defendants.

The case of the prosecution rests upon documents and photographs found in the files of the SS. These documents establish the position, the activity, and the responsibility of these defendants. In addition, there are eye-witness accounts of the many crimes charged in the indictment. And there are motion pictures of the concentration camps taken by the advancing Allied armies. This is the character of the evidence supporting the charges here.

The defense is based primarily on what the defendants themselves have said, and the object of most of their talking has been to explain away or contradict what is in the documentary evidence. Such testimony is self-serving, a factor which tends to weaken its credibility and weight. But there are more important factors, most of them peculiar to this case, which must also be kept in mind when this testimony is considered. We now turn to these.

To comprehend the attitude and activities of these defendants before Germany's collapse and their behavior on the witness stand, it is necessary to keep constantly in mind the burning spirit of comradeship and loyalty to their organization which is characteristic not only of them but of practically all of the hundreds of thousands of members of the SS. Without reference to this feeling of blood brotherhood, a good deal of the testimony by the numerous members of the SS, who have been called as witnesses throughout the course of the trial, becomes unintelligible gibberish. The sources of this feeling and the reasons which later fortified and nourished it are exceedingly complex. When one tries to understand the mentality of the SS man, he is, of course, seeking to analyze a peculiar, irrational creed compounded, like some vile witch's brew, from ingredients which are so far removed from the thoughts and beliefs of the ordinary civilized

person that it is almost incapable of being recognized by any intellectual process.

* * * * *

The ethical and moral concepts of the Christian world are largely based on the Old and New Testaments, and these are the very standards which, according to the philosophy of the New Order, were to be despised and cast off. * * *

It is a natural step from the adoption of such a philosophy to the incarceration into concentration camps of millions of human beings classified as "racial inferiors" and it is equally natural that these subhuman types should be wiped out after they had contributed as much as possible to the wealth and comfort of the superman.

Now the very fact that such a creed is so horrifying to the ordinary person is itself enough to draw those who do believe in it together and it was inevitable that these persons, mutually attracted by a common faith in their psychopathic cult, would quickly form a feeling of spiritual kinship to each other. This is one of the sources of the SS blood brotherhood.

But there are other ingredients which go to make up this feeling. A very potent one is the militaristic spirit. The Court will remember that almost every defendant eventually said that he regarded himself first and foremost as a soldier. Even the auditors and bookkeepers professed to have this conception of themselves. Vogt said of himself:

"Since the age of 15 I was a man in the soldiers' class."

(*Tr. p. 2864.*)

We had heard before of the church militant, but this was our first introduction to the adding machine militant. There is always a certain amount of feeling of comradeship among members of a military organization. This played its part in welding together the members of the SS. It was heightened and fed by their notion that they were members of an *elite*, exclusive organization, an idea which was systematically imparted to them by every method known to modern propaganda. The men of the SS were expected to be more than mere converts: they were to be the living embodiment of these ideals, and were to carry the gospel to the uninitiate.

This propaganda was so effective that the members of the SS even today believe, as Obergruppenfuehrer Karl Wolff testified here in this Court, that they were the purest and finest that Germany has produced. He evidently saw nothing incongruous in making that statement and admitting at the same time that the

crimes committed in SS uniforms were the worst in recorded history.

To these elements which constitute this intense loyalty, demonstrated by the blood oath that every SS man swore, must be added another factor which manifested itself more and more as time went on. The guards of the concentration camps were always members of the SS. They advertised their ruthlessness; the death head was their symbol and fetish. Almost from its inception, therefore, the SS was associated in the minds of the German people with dark, sinister, and fearsome happenings. Himmler recognized this when he said that there were people in Germany who became sick when they saw these black coats and that he did not expect that they should be loved by too many.

As the organization grew, the concentration camps multiplied, the feeling of terror of the SS on the part of the population became proportionately more acute. After the end of the war, every member of the SS from Scharfuehrer up to General became an "automatic arrest case," and several thousand of them are still sitting behind barbed wire enclosures today. Therefore, to all of the other forces which tend to fuse and unite the members of this organization has been added the effect of this physical segregation and this social ostracism. They are now drawn together by very much the same feeling that must exist among members of a leper colony. The repugnance toward them is not even tempered by pity—their disease is moral rather than physiological.

DR. GAWLIK: If the Tribunal please, we cannot understand the translation. Large parts of the English text are being left out. It is hardly possible for us to follow the speech.

PRESIDING JUDGE TOMS: I think if we slow it down just a little bit, Mr. Robbins, the interpreter will keep up with it.

MR. ROBBINS: What is significant here about all this is that this feeling of blood brotherhood and loyalty to the organization has been projected time after time into this very courtroom.

It must be abundantly clear to the Court by now that it is almost impossible to get a member of the SS to say anything even mildly unflattering, much less incriminating, about another member. It would be surprising if the situation were otherwise. It is expecting too much to think that a man confined in one of these SS internment camps will come into this courtroom and testify against his former leaders when he knows that after he has left the witness stand he is going to be sent back among his comrades. They know that though the wings of the SS have been clipped by the Allies, the personnel of the SS are still living together as a band of brothers, and they have seen enough of the way the SS

operates to know that a good memory and a tendency to be loquacious is conducive to a short life-span.

What is the significance of all this? The credibility of the defendants and of the witnesses produced on their behalf is the most important question in this case. As we have said, the major part of the prosecution's proof is based upon captured documents, many of them written by these very defendants. Upon the naked evidence shown by these documents, every defendant stands condemned. That is why none of them dared to refuse to testify: they all knew that if they did not make every effort to explain these creations of theirs in some way, if they did not do something to mollify their plain meaning, deflect their implications and minimize their effect, their fate was sealed. If one considers only the evidence of the documents and the positions of these defendants in the WVHA, there is not even a serious question of criminal responsibility left.

Therefore, we have been treated to a thesaurus of asseverations by the defendants that documents addressed to or signed by them were not read; or if read were not understood; or if understood were understood imperfectly; that official directives were never carried out or were secretly rescinded; that official duties assigned were never performed; and that official reports contained in their files were full of factual mistakes.

* * * * *

When the word "credibility" is mentioned in connection with these men, not only must the Court keep in mind the nature of this feeling of blood-brotherhood, but it also should not lose sight of the fact that all of these defendants were Hitler's minions. They were all officers in an organization which was, to use their own expression, on the "ministerial level." Many of them had personal contacts with Himmler.

Pohl described himself as "one of Himmler's closest collaborators." Hans Loerner was a kind of supercaterer in Himmler's personal tent during the Nuernberg Party rallies. August Frank described his inspection tour of one of the concentration camps in company with Himmler. The Court will recall his description of the fatherly interest that Himmler displayed in the inmates. Every one of them is an old member of the Nazi Party and has been thoroughly grounded in its methods of operation.

One of the customary methods by which Hitler achieved his results was through reemphasizing and reiterating a falsehood so many times that his hearers, even if in the beginning they knew of its untruthfulness, were despite themselves brought around to believe in it. This is no mere speculation. Hitler was fond of cynically discussing the efficacy of this method. He de-

scribes it in his book, "Mein Kampf," he frequently talked about it in private conversations, and he even mentioned it in some of his speeches. He was firmly convinced that people could be made to believe anything if it was repeated often and loudly enough.

It must be admitted that up to a certain point his confidence in this belief seemed to be justified. But justified or not, the belief and the method were well known to every old Party member such as these defendants, and it is fairly evident, that from time to time they have used it on this Tribunal. Here again is a situation different from anything that ordinarily comes before a court—where all of the defendants are confessed leaders of an organization, one of whose principal tenets was that a lie will be believed if you repeat it often enough.

We have been speaking about the bonds of loyalty between all the members of the Waffen SS. If what we have said about them is true, how much more powerful must be the ties between these defendants here. All of these men have long-standing connections with the SS. Some of them were active in concentration camp affairs as early as 1934. They are high-ranking officers, not only in the SS, but in the same Main Office of the SS. Most of them have known the others for years. They are personal friends. Some of them, before they came into the WVHA, were fellow officers in the same combat unit. Baier and Pohl were in the navy together, and have known each other since 1912. Fanslau and Tschentscher were in the SS Viking division together. All of these elements must be added to the ones which have already been mentioned as forming this mystical tie between the members of the SS generally.

It has been perfectly apparent from the time this trial opened that there has been a definite plan among these defendants to coordinate and unify their testimony, and it is equally apparent that from the very beginning, certain strategic principles were adopted by the whole group and religiously adhered to throughout the course of the entire proceeding. We will briefly touch on the matters which show the existence and direction of this over-all plan of strategy.

These defendants were apprehended at different times in different parts of Germany. When they were first arrested, the war had just ended and nobody knew precisely what was to happen next. All that these men knew was that they had been generals and colonels in one of the most important Main Offices of the SS. They knew that the particular organization with which they had been affiliated was in charge of operating the entire concentration camp system, and also of handling the administrative side of the Action Reinhardt. They knew that when the invading Allied armies came in, they had uncovered proof of unspeakable horrors

which had been committed in the concentration camps. The black heart of the SS had been laid bare. They knew that they were being held in connection with these atrocities, but they were not sure whether they were to be tried or summarily shot; or if they were to be tried, what sort of a trial it would be, or how they would be treated. The only police methods with which they were familiar, were those of the Gestapo, the Secret Field Police, the SD, and similar organizations. The memory of these methods did not add to their peace of mind. Furthermore, the sense of guilt which they had carried, damned up within themselves for so many years, finally found an outlet. They decided, in short, that the jig was up and that for once the simplest way was to tell the truth.

After they had been in captivity for some months, the machinery for the carrying out of these trials was eventually set up and they were interrogated. By that time, it had become apparent to them that no one intended to threaten or molest them, but enough of their original sense of guilt remained to cause them to talk comparatively freely. Further, even then these various defendants did not know how much the Americans knew about their activities. They did not know what documents we had and what documents we had not found. They knew that a systematic effort had been made to destroy the files of their various offices, but they also knew that this destruction of evidence had not been 100 percent efficient all over Germany and they could not be sure that such and such a letter or report which was sent to Himmler's office or to Oranienburg or to Auschwitz had not fallen into the hands of the Allies. They were also under the disadvantage of not being able to communicate with each other. None of them knew how much his colleagues had talked.

In these circumstances, the defendants all executed affidavits which have been introduced in evidence here. In most cases 6 or 8 months elapsed between the time that a particular defendant executed the affidavit and the time he took the stand. In every case, the defendant had an opportunity to read it and to make corrections and changes. These affidavits contain statements which incriminate, in some cases, not only the affiant but also several of his colleagues, by showing their connection with such matters as the allocation of food to the concentration camps, the allocation of inmate labor, the appointment of concentration camp personnel, the administration of the money derived from the Action Reinhardt, and so forth.

As the trial progressed, however, one after another of these defendants took the stand and repudiated statement after statement which he had made in his affidavit. One of the most striking

examples of this was furnished by the defendant Vogt. By the time he took the witness stand, he was able to point to eight or ten statements in his affidavit which he describes as incorrect. The Court naturally became inquisitive why he had not called attention to this before. Here are the reasons which Vogt gave for signing the affidavit, saying nothing about its alleged inaccuracy for several months and then, when he took the witness stand, attempting to gainsay a substantial part of it:

(1) He did not have his spectacles on when he examined some of the documents and was therefore not able to read them. (*Tr. p. 2815.*)

(2) The interrogator did not allow him to examine the entire document but only showed him the first and last pages and covered up the contents of the document above the signature with his hand. (*Tr. pp. 2815, 2836.*)

(3) The interrogator forced him to sign the affidavit before he had a chance to consult his lawyer. (*Tr. p. 2821.*)

(4) He was in such a debilitated physical condition as a result of malnutrition, that his entire nervous system was affected and he did not know what he was signing. (*Tr. pp. 2821, 2826.*)

(5) The interrogator misinformed him in the course of their talks and also put words into his mouth which he did not use. (*Tr. pp. 2828, 2832.*)

It was in order to bolster this last contention that Dr. Schmidt, Vogt's counsel, demanded to see a copy of the interrogation. (*Tr. pp. 2823-25.*) The prosecution turned the transcript over to him last June and has been waiting ever since to have these alleged improprieties pointed out. We are still waiting.

Another example is the fiasco of the affidavits concerning the responsibility of Amtsgruppe B for the supply of food to the concentration camps. Here two defendants were implicated, Georg Loerner and his office chief in charge of food supply, Tschentscher. Prior to the trial, five defendants had made sworn statements that Amtsgruppe B was the highest authority for the distribution of concentration camp food. Even Georg Loerner himself stated in his affidavit that "official channels were from D IV to Gluecks and from Gluecks to me. I admit that these were the normal channels." Affidavits by Frank, Fanslau, and Vogt who were all in excellent positions to know, corroborated Loerner's admission. Pohl testified under oath in an interrogation a year before the trial opened that Georg Loerner was "in charge of clothing, feeding, and housing the SS and concentration camp inmates."

On the stand, however, every defendant recanted.

Another instance is the affidavit of Pohl which implicated the defendant Eirenschmalz. It was executed on 1 April of this year

and said that the statement of accounts for the construction of the gas chamber and the crematorium of Auschwitz concentration camp was sent to Eirenschmalz's office for a preliminary examination. In the course of his cross-examination on 27 May, the prosecution read this part of the affidavit to Pohl and asked if he had any comment to make about it. His reply was, "I cannot imagine anything else and have nothing to add in this respect. I assume that this is correct." Three days later, however, he executed another affidavit which in fact said that he was in no position to know how the work in Amtsgruppe C was divided and that the statements in his former affidavit, were therefore, based "only on assumption."

This repudiation of affidavits has not been confined to the defendants. Almost every member of the SS whose affidavit was used by the prosecution in this case has had a change of heart since the affidavit was signed and has accommodated the defense with a counter affidavit, saying that he must have been mistaken originally. The case of Hermann Pister, the ex-commandant of the Buchenwald concentration camp, himself on trial for his life, was an example of this.

Pister stated that the office chief of the WVHA had met with the concentration camp commanders and that allocation of labor and other concentration camp affairs were discussed. In his repudiation he says that there were meetings but they were only social meetings and no business affairs were ever discussed. Pister's first statement that official matters were discussed was corroborated by Pohl's testimony that "before the official meeting, in order to give them the opportunity to discuss certain things with me, I invited them to supper in Berlin." Regardless of whether the meetings were official or unofficial, Pister's first version of the conversations makes more sense. It is hard to imagine Mummenthey, for instance, who directed plants in which thousands of inmates worked, scrupulously avoiding the subject of availability of workers.

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MR. FULKERSON: * * *. Another standard explanation given by the defendants for changing their stories is that their recollections like wine, improved with age. "If I had known what I know now, I would not have written all that nonsense in my affidavit," August Frank said on the witness stand. It is a strange phenomenon that his memory for past events increases and sharpens rather than diminishes as time goes on. But this phenomenon is not confined to Frank. Pohl had to say repeatedly that his memory became more accurate day by day. In fact, it improved so much that Baier's position shrank from that of manager of the whole

DWB—the description which Pohl first gave of him—to that of a mere unimportant auditor.

It should be noted also that the retractions, amendments, explanations, and commentaries were made for the first time from the witness stand. In other words, each defendant wanted to hear all the testimony that he could before he made his corrections, so that the revised version would conform to the official line. Since Pohl testified first, he did not have this advantage, so he had to correct his testimonial reaffirmance of his first affidavit by a second affidavit.

By the time the testimony had been under way a few days, this strategy of having every defendant cover up and defend the activities of all the other defendants became quite obvious. The only defendant who was not allowed to get on the Ark was Pohl. Apparently, the planners of the strategy decided that Pohl was too deeply implicated in too many outrages to be helped, no matter what was said. Since he was beyond salvation anyway, it was decided to make him the scapegoat of all the others.

But from a purely strategic standpoint, it was not advisable to blame everything on Oswald Pohl. However ubiquitous and ambidextrous he may have been, he could not have been everywhere at the same time. This presented a problem, but fortunately, from the standpoint of the defendants, a solution was quickly hit upon. Some of the Amt [office] chiefs are conveniently dead. The maxim *de mortuis nil nisi bonum* was turned wrongside out. It certainly could not hurt Gluecks, Kammler, Hoess, and Lolling, who had already passed to their reward, to be accused of the things which could not plausibly be blamed on Pohl. The same was true of Melmer. The argument boils down to the proposition that the only bad SS men are the dead ones. Unfortunately, we do not believe that divine retribution works as quickly and thoroughly as this contention would suggest. It is true that Himmler, Koch, and Kammler are dead or have vanished but some odds and ends remain.

Another striking proof of this coordinated defense strategy is the fact that not a single SS man called by the defendants had admitted knowing anything about the extermination of the Jews, mistreatment of inmates in concentration camps, inadequate food, clothing and shelter in concentration camps or any activities on the part of the concentration camp guards and the administrative personnel which was even mildly nasty. They never heard that foreigners were in the concentration camps and never heard of the deportation of Jews. These protestations of ignorance reached a climax in the courtroom when the defendant SS Colonel Scheide, a member of the Party since 1928 and of the SS since 1930 and

onetime company leader of the body guard of Adolf Hitler, said that he did not even know that Jews were put in concentration camps.

No matter how high up in the SS or how close he was to the scene of these mass murders, no one ever heard about anything.

The members of the Tribunal themselves have asked how far up in the SS hierarchy one has to go in order to find someone who knew what was happening. Even Obergruppenfuehrer Karl Wolff, head of Himmler's personal staff, didn't know that the SS was killing Jews. He maintained this although he was shown a letter over his own signature where he said that he was happy to hear that 5,000 of the Chosen People were being sent daily to Treblinka. The SS man Caesar, labor allocation officer in the worst camp of all—there on the spot in Auschwitz for years—never heard about mistreatment or killings.

The only exception to this was the defendant Hohberg who learned that gassing and shooting of inmates were constantly carried out by the SS; that guards mistreated and killed inmates and that people were shot *en masse* in the East by Sonderkommandos. Everyone, he said, saw how the SS evicted Jews from their apartments, herded them into trucks and deported them.

Hohberg was not a member of the SS. He is the only member in the dock, therefore who was not bound to adopt the strategy prescribed by the manual. * * *

But today it is impossible to find an SS man, either inside or outside of the WVHA, who knew of anything. In the course of his pretrial interrogation, Pohl was asked whether the SS knew about the things that went on in concentration camps and his reply was that from Gluecks and Loerner right on down to the last little clerk in the WVHA everyone must have been aware of it, and that it was complete nonsense to speak about this information being confined to a handful of men.

When he went on the witness stand, of course, this statement, which had been made under oath, was retracted. One of the defendants' own witnesses, who had been an inmate in a concentration camp, testified that these things were known all over Germany. He pointed out that concentration camps were often near big cities and told about the contacts between the inmates and the civilian population. He described how a truck full of bodies being sent from Sachsenhausen to an outside crematory overturned on a highway in public sight; about how the inmates would march through the villages pushing carts full of their dead and dying comrades, and how suicides and shootings were frequent during the march and could be seen by everyone. This was a witness called by the defense but not an SS man.

Another inmate, from Camp Buchenwald and Dora, gave the reason for the construction of the crematorium at Dora. For some time, the bodies of the inmates were hauled from Dora to Buchenwald for burning. But it became quite embarrassing to the SS, he said, when the drunken drivers would lurch and careen over the highways, spilling corpses out of the truck-beds. People on their way to church would stumble over the bodies. It obviously would not do to have these constant menaces to traffic and religious meditation, and so a crematorium was built at Dora. This witness regularly conducted large parties through the camp at Buchenwald. They weren't shown everything, he testified, but they were able to see a great deal with their own eyes. He himself showed the parties exhibits of shrunken skulls and tattooed skin; they could see the inmates in their rags and with their bleeding wounds and how Jews were worked like horses. There were months when visitors arrived every day. Busses carried them from Weimar to Buchenwald. Often groups of young people came. The inmates assumed that these were the school children of the new generation.

* * * * *

Another indication of this unified plan of defense is a series of standard excuses, defenses and narrations which were employed by almost every defendant. One of these common refuges is Fuehrer Order No. 1. They all explain their ignorance by referring to this order, which, as the Court will remember, admonished secrecy and directed that persons were to know only what their jobs required them to know. It has been mentioned a hundred times in the course of this trial. For the defendants to fall back on this general directive in order to bolster their stories that they did not know what was going on within their own agency is ludicrous.

To say this is to ignore the whole purpose of the establishment of the WVHA, as well as all that we know about the way that it was conducted. This brings us to another of the standard defenses.

Each defendant, when he took the stand, tried to create the impression that his own office, whether its job was the allocation of clothing or the auditing work, was completely independent and isolated from the activities of all the other departments of the WVHA, and that the whole organization was run in such a manner that his right hand never knew what his left hand was doing.

* * * * *

The only difficulty is that this description of the WVHA flies into the teeth of all the evidence concerning its history and reason for being, and indeed into the teeth of all human experience. The whole purpose of creating an Economic and Administrative Main

Office in the SS was to have one central agency handle all matters in these spheres which affected any of the thousands of SS agencies, units, institutions, and industries. Instead of having a series of separate agencies handling different matters without reference to each other, all the agencies were merged into one and put under the command of one man. When a matter which affected affairs that were administered by 4 or 5 offices was discussed, enough copies of the memo announcing the decision were made for all the offices concerned and were simply distributed within the building. When a problem arose in one office whose solution could be expedited by another, it was a simple matter for the heads of the offices involved to arrange for a conference or even to settle the matter over the telephone.

That a close liaison between all the offices did exist is shown by document after document. The case of the Stutthof concentration camp, whose affairs were rather entangled, bears this out very clearly. Practically every office of the WVHA was concerned. In February 1940 Pohl and Heydrich, chief of the RSHA, recommended to Himmler that the civilian internment camp at Stutthof near Danzig be converted into a concentration camp. In February 1942, the WVHA took over the camp and Pohl immediately ordered that it be expanded so that it could accommodate 25,000 inmates. Prior to Pohl's acquisition of the camp, however, an important conference and inspection took place in Stutthof in January 1942. It was to be determined how the SS industries would fit into the picture. Pauly, the commandant; a representative of the Higher SS and Police Leader; the chief of the Amt for construction; the inspector of the W offices, Maurer; defendant Volk representing staff W; and three other representatives from staff W participated. The results of the conference are contained in a report to Pohl signed by the participants including Volk. The report states that the concentration camp is to house 25,000 inmates including prisoners of war. The report also refers to "special camp for free labor for the running of the factories." This was a reference to Polish workers. These camps, the report states, contain "evicted Polish families" totaling about 11,500 individuals. These entire families were to be kept in confinement for at least another 2 or 3 years. The report sets out in detail all of the machinery for taking over the concentration camp by the WVHA and for operating the concentration camp enterprises.

A few days after the conference, Volk wrote Hohberg a memorandum, the contents of which show the importance of Volk's participation in the conference and inspection at Stutthof.

In describing the brick works at the concentration camp, which were to be taken over by DEST, Volk says that the works have a

production capacity of eight million bricks, and the stones cost 135 RM per thousand, and that since there are only 29 employees the works "must be lucrative." Of course nothing is included in his calculation for the cost of labor to be furnished by inmates of the camp. That is why the industry would be particularly "lucrative." In the memorandum, Volk goes on to propose methods by which the brickworks may be brought under the Reich Leader SS. The brickworks were in fact successfully brought under the SS, and specifically under the operation of DEST and the defendant Mummmenthey. In a letter from Volk to an official of the concentration camp, dated 25 April 1942, Volk states that the brickworks were acquired by the Reich through SS Oberscharfuehrer Hoffmann of Staff W, and that Hoffmann was "following my instructions." On the stand, Volk testified that his letter was "wrong to some extent, but not quite wrong." He said that Hoffmann was not at that time in the legal department of Staff W, but was in the legal department of DEST. However, Volk could not deny—as his letter states—that he had instructed Hoffmann to acquire the brickworks. Volk was obviously disturbed by the fact that the documents had shown, (1) that he had given instructions in establishing a concentration camp enterprise, and (2) that he had given instructions to an official of DEST. Both propositions he had previously denied.

In addition to DEST, two other SS industries under W IV and W V, respectively, operated enterprises at Stutthof with concentration camp inmates.

W IV and W V rented the enterprises from the Reich. Rental was collected by Amtsgruppe B which was in charge of accommodations. The Reich had purchased the enterprises through office III (legal office) of Amtsgruppe A.

Upon Pohl's acquisition of the concentration camp he wrote to Himmler: "I issued an order for the extension of the camp immediately after taking over."

Building plans for extension of the camp were drawn by Amtsgruppe C.

Kiefer's office C II was also involved in negotiations since it was planned that the construction industries in connection with Stutthof were to be placed under office C II.

It was also of course necessary for the budget office under Hans Loerner and the auditing office under the defendant Vogt to take a part in the establishment of the concentration camps.

In September 1942 Hans Loerner gave his "opinion" to the accounting court on the Stutthof concentration camp as follows:

"The establishment of collecting camps for undesirable Polish elements in the territory of the city of Danzig was already

necessary in the August days of 1939 and even more so at the beginning and end of the Polish campaign."

The report by Hans Loerner goes on to detail the mechanics of budget and finance in connection with the concentration camps, and shows that the "Chief of the Budget Office" was required to have rather extensive knowledge of concentration camp affairs. Loerner relates that within a short time seven collecting camps were established; that the construction of the Stutthof concentration camp was begun on its present site; and that certain funds for building the camp were made available by the Danzig police treasury. Financing of the concentration camp is dealt with in detail in the report, which refers to the source of revenue for feeding, clothing, and housing the prisoners and to the fact that the concentration camp enterprises became self supporting only after the WVHA took charge of the concentration camps. The report was prepared by Loerner after conferring with Vogt of office A IV.

Hans Loerner issued an order, after conferring with Pohl, that after the purchase of certain real estate by the Reich on behalf of DWB, the amount of 300,000 RM would have to be paid back by the DWB to the Reich.

A memorandum from the legal department of staff W, by Hoffmann to Baier and Volk, states: "If necessary, detailed information relating to this subject may be obtained from SS Obersturmfuehrer Vogt, chief of the auditing office."

Thus every Amtsgruppe played an essential part in setting up the concentration camp and getting it into operation.

* * * * *

Document after document shows how the various officials of the WVHA had conferences together to settle matters which affected them all. Kammler had weekly meetings with Eirenschmalz and Kiefer. There were regular consultations of the W office chiefs. We quote from the minutes of one of them:

"The Amt chiefs were asked to attend this meeting not because a special point is up for discussion, but because it had been noticed that, lately, when evacuating certain Aemter, regular cooperation between the staff and the offices is not always assured. Especially now, when the offices are very much dispersed, it is necessary more than ever before to cooperate very closely with the staff."

In other words, even after the Allied bombardment of Berlin had made it necessary for the various offices to be in different buildings, the same close liaison was maintained. Under such circumstances it is preposterous for those defendants to talk about the Fuehrer Order as a reason for their ignorance of what

was happening. Yet this is one of the standard excuses: "I didn't know what was going on outside of my office. The reason I didn't know was Fuehrer Order No. 1."

Another example of the complete integration of the entire Main Office is the matter of deputyship. One becomes a little dizzy trying to follow this: Frank and Georg Loerner were successively Pohl's deputies; Fanslau was Frank's deputy; Hans Loerner was Fanslau's deputy; Tschentscher was Georg Loerner's deputy; Kiefer and Eirenschmalz were Kammler's deputies; Maurer was Gluecks' deputy and Sommer was Maurer's deputy. Hohberg and Baier were Pohl's deputies in W, and Volk was Baier's deputy. Almost everyone in the dock, in addition to his own duties, had a deputyship to perform. This makes the claim that no one heard anything except what went on in his own office even more absurd.

* * * * *

Another one of these stock narratives turns up in the testimony when the question of the attitude of a particular defendant toward the Jewish question is raised. To read these pages of the testimony alone, one would think that he had before him an extract from Voltaire's essay on *Tolerance* rather than the testimony of an ex-general in the Waffen SS who was charged with the administration of part of the concentration camp system. When the question of the defendant's attitude toward the Jews was introduced in the course of his examination, the first effort he made was to clamber up his family tree until he found some Jewish or half-Jewish in-law. If this search was fruitless, he fell back on his childhood associations at school and at play with Jewish children and how friendly their relations had been. Next, he recalled the fact that during the First World War he had known some Jews in the Wehrmacht who had been excellent officers. Then he told about some Jewish family that he had taken under his wing after the seizure of power and personally protected as much as he could. Finally, if possible, he produced a handful of affidavits from Jewish acquaintances to the effect that they always regarded him as a sterling character and that he had expressed his disapproval of the atrocities to them. The "proof" of each defendant's spotless record so far as anti-semitism is concerned was usually produced in exactly the order which has been stated.

We now pass on to another standard defense. The defendants had apparently heard by their lawyers that according to the IMT judgment, if a man was drafted into a criminal organization, its crimes could not be laid at his door. Forthwith, several of the defendants became draftees. This is another defense which is so feeble that it is wearisome to have to answer it.

* * * * *

The SS administrative officers who survived the test of time and rose to the top were all men who had had extensive experience in administrative affairs of the concentration camps. Within the higher echelons of the SS, connection with the concentration camp system was evidently analogous to having been editor of a law review or a fellow in All Souls College. Experience with the concentration camps carried with it a prestige which was almost unique.

The change in attitude which has taken place between the time the defendants were walking around in their black boots and stylishly tailored uniforms in the WVHA office and the time they took the stand before this Tribunal is startling. * * *.

These defendants were the indispensable men of the SS. It is not difficult to find a person with sufficient training and experience to qualify him to fling a can full of zyklon B gas crystals into a room and slam a door, but it would have been quite a problem to replace a man who was in charge of an SS industry with 500 brickworks or to find a capable successor for men like Vogt and Volk who were apparently walking abstracts of title to the real estate and fixtures of the concentration camps. To say that these men were drafted to do their jobs is utterly fantastic. They did their work with efficiency because they liked it, because they were devoted to the SS, because they were blotched and infected by this same weird, mad fanaticism. They performed their jobs so well in fact that as time went on they passed from glory to glory and received promotions in recognition of their work.

It is perhaps laboring a point to rebut further the argument that these men were drafted to their kind of work, but a corollary to the argument is the question that so many of the defendants have asked: "What could I do? I was already in the midst of this organization by the time I discovered its connection with these frightful things." The implication is that, short of committing suicide, it was impossible for them to disassociate themselves from these sinister deeds.

We know, however, that nothing so dramatic would have been required. It was not necessary, in order for one of these defendants to terminate his affiliations with the WVHA, for him to walk into the office of the Reich Leader SS, click his heels, salute, and announce in bold, clear tones that he disapproved of the slave labor system, the concentration camp system, and the extermination program. All that he had to do, in order to be quickly relegated to Limbo, was to be guilty of a few lapses of memory, a few exercises of bad judgment, a few administrative blunders. After that, he would not have been burdened with the care of admin-

istering an important function in the WVHA. Vogt himself testified that when he tried to retire on a pension, he was told that resignations were only allowed for inefficiency.

* * * * *

So much then for the common defenses and explanation. They are so feeble and grotesque that it is a little insulting to the Court's intelligence to waste time in rebutting them. We have not mentioned them here because we feel they need to be answered so much, as because the fact that they were so uniformly adhered to by so many of the defendants shows how the close liaison and spirit of cooperation which existed among them while they had adjoining offices in the big building on Unter den Eichen is still being carried on in the Palace of Justice here at Nuernberg. If anything, the coordination is closer now than it was then.

Everything that has been said, of course, has a direct bearing on the credibility of the defendants. There are so many examples of contradictory statements made by the same defendant and of testimony squarely at loggerheads with documents which the defendant admitted to be correct, that an enumeration of all these inconsistencies would almost amount to the abstract of the entire record.

The defendant Frank, for example, testified that he left the WVHA because he became troubled in conscience by the close connection between Amtsgruppe D and the rest of the organization, and because he was upset by his connection with the Action Reinhardt. The truth of the matter is that the job of administrator of the police which Frank took over after he left the WVHA was actually higher and more desirable than the position he held under Pohl. It put him in a position where, when the office of administrative chief of the army was open in 1944, he was able to squeeze Pohl out and obtain the job for himself. The Tribunal will remember his saying that relations between him and Pohl became rather strained as a result of this. The real reason Frank left the WVHA was that he was promoted to a more important job in recognition of the excellent record which he had made as deputy chief there.

The most audacious distortion made by any defendant on the witness stand was Frank's explanation for his ignorance of the Action Reinhardt until relatively late. After saying that "Himmler and Globocnik were real masters of cunning and deception," he went on to explain:

"One has to understand further that there was another camouflage, that, for instance, the money, the cash, went in the treasuries of the Waffen SS, and therefore to the Reich treasury; the gold and jewels went to the Reich Bank, and there they

were stored for months—if not years—until they were examined, counted, and utilized. The watches were sent to Oranienburg, the eye glasses were sent to the Medical Inspectorate; the various things like towels, suitcases, rucksacks, were sent to the Volksdeutsche Mittelstelle. Furthermore, napkins and towels were sent to the soldiers. Furs were sent to Ravensbrueck; suits and clothes to the Reich Economy Ministry. There were ten, or perhaps a dozen, offices where these things were sent.” (*Tr. p. 2278.*)

Now what is so completely amazing about this testimony is that all of these articles were delivered to their respective destinations by Frank’s own infamous “disposition order.” Compare the testimony just quoted with the following excerpts from this order:

“(a) Cash money in German Reich Bank notes must be paid into the account WVHA 158/1488.

(b) * * * rare metals * * * jewelry * * * must be delivered to the WVHA.

(c) Watches are exempt from sale. Their utilization rests with me.

(d) Spectacles and eyeglasses * * * are to be handed into the medical office * * *.

* * * * *

(f) Rucksacks and suitcases * * * are to be delivered to the Volksdeutsche Mittelstelle.

(g) Towels, napkins * * * can be furnished for the needs of * * * troops.

* * * * *

(i) Furs * * * are to be delivered to * * * Ravensbrueck.”

It can thus be seen that every item he enumerates was sent where it was *because Frank had ordered it to be sent there*. If, therefore, Frank was mystified by this “camouflage,” he had achieved the supreme perfection of that art—he had succeeded in deceiving himself. We are reminded of Daedalus, the mythological inventive genius, whose labyrinth on Crete was so complicated that when he had finished it, he could not find his own way out. Admittedly, it was a tangled web which August Frank wove, but we do not believe he lost himself in its meshes.

Another example is that of Fanslau and Tschentscher. The description of atrocities committed at Zloczow and Tarnopol, which were principally committed by members of the Viking division, are so firmly established by the evidence that there can be no doubt about their occurrence. The official reports of the activities of the Einsatzgruppen would be enough to show the extent and ferocity with which these pogroms were carried out. According to

the testimony and the documents, these things were happening at Zloczow almost at the very time that Tschentscher and Fanslau say they were there. Yet, according to them, they not only saw no sign of such a thing but never heard of any such matters the whole time they were in Poland and Russia. The Einsatzgruppen documents show that in October 1941, 10,000 Jews were wiped out in the course of one or two days at Dnepropetrovsk. Tschentscher was in Dnepropetrovsk about a month later when according to the report the extermination was still, according to the documents, in progress. But he still testified that he never heard of a Jew being harmed by a German the whole time he was attached to the Viking division. The ability of these two men to remain ignorant of what was going on all around them is almost without parallel.

Similarly, the defendant Kiefer steadfastly denied that he or his office had ever had any connection with construction activities in concentration camps, until the prosecution produced two sets of blueprints bearing his own signature which he had furnished for buildings to be erected in the Auschwitz concentration camp. Dozens of other examples of this kind could be given and are given in the briefs concerning the respective defendants. But we have already said enough to show that the testimony of these defendants is so replete with evasions, fantastic explanations and outright lies that it is devoid of any credibility.

Turning now to the criminal acts of the SS and WVHA, for which these defendants must bear responsibility, we do not propose to weary the Court with a long repetition of what the whole world already knows. The conditions in the concentration camps which the Allies found in 1945 will stand as a perpetual monument to the obscene depths to which the human spirit is capable of descending. The scenes which met the eyes of the invading Allied troops at Buchenwald, Bergen-Belsen and Dachau will take their place in history beside the pyramids of human skulls erected by the Golden Horde of Tamerlane and the extermination of the Carthaginian populace by the Romans. But even these ancient butcheries do not furnish an adequate comparison. The slaughter of these people was at least accomplished in a quick and relatively painless manner, whereas before the victims of Mauthausen and Auschwitz were allowed the relief of death, they were frequently subjected to years of starvation, semi-nakedness and every kind of barbarous mistreatment that the sadistic minds of the guards' commandant could devise. The concentration camp system stands in a class by itself.

The defendants now profess to share the same revulsion toward this murderous orgy as is felt by decent people everywhere. But

they have chanted over and again the official chorus that the first time they had any inkling of such things was after the war was over, and that even then they could not believe what they heard. The only dissonant note was sounded by Hohberg.

We have shown the Tribunal that concentration camp inmates were used all over Germany. The existence of the concentration camps was no secret, and it was impossible in the nature of things to conceal the physical condition and the high death rate that prevailed among the inmates. Too many families in Germany received terse notices that one of their members, whom they had last seen when the Gestapo took him into "protective custody," was no longer among the living, along with a can labelled as the ashes of the deceased. In some cases, the Teutonic passion for method led to the practice of registering the deaths of the inmates with the local vital statistics bureau where everyone could see them.

We have already said that among these defendants are men who could proudly point to as long a record of association with concentration camp affairs as anyone in Germany. Himmler made Pohl chief of the administrative office of the SS in February of 1934. Georg Loerner and August Frank were there when Pohl arrived. Frank was directing the administration of workshops in the concentration camp at Dachau in March 1933. This was only 5 weeks after Hitler's seizure of power. As early as 1936, Pohl's five Main Offices in the SS Administrative Office were an essential part of the concentration camp system. By 1939, ten of the defendants were working with Pohl. In other words, they were the architects and builders of this evil edifice. It is perfect nonsense to say that the men who were in charge of the supreme agency for administering the concentration camps did not even know what was common knowledge.

A distinction should be made, however, between the situation that existed in the concentration camps in Germany and what took place in the East at the official abattoirs at Auschwitz, Lublin, and Treblinka. The commandants and guard personnel of the camps in Germany were given a free hand to behave as they liked, and if it happened that one of these people sought his pleasure in bayonetting inmates or in hanging them by the thumbs for several hours, the officials of the WVHA simply shrugged it off as a matter of personal taste. It was not that they either encouraged or disapproved such practices; they all explained that after they had chosen and assigned to his job the man who found his solace in such amusements, it was up to another agency to prevent his carrying them to excesses. True, they were not only responsible for the assignment, but also for the transfers and promotions of these interesting types. But technically, the matter of punish-

ing inmates was one for another agency to regulate, or so they say.

We pass on now, however, to a matter which was not haphazard or governed by personal inclinations and which was so closely allied with the WVHA that the very mention of its name instantly connotes this organization. We refer to the Reinhardt Action. This was first set in motion, according to Pohl, in "1941 or 1942." The WVHA was associated with it from the beginning. It was in full swing at least as late as July 1944, and the job of managing the immense wealth, which accrued to the credit of the WVHA as a result of it, continued throughout the life of the organization. The action was commenced by Himmler's order under the direction of Globocnik, the SS and Police Leader at Lublin. In 1943 Globocnik, for some reason, was transferred from Poland to Trieste and the task of completing his work in the East was transferred to Pohl. But long before Globocnik left, Frank was issuing directives concerning the distribution of the confiscated property, asking Himmler what to do with the surplus dental gold, and Vogt was auditing the treasury at Lublin. Therefore, it can truthfully be said that the administration of the Action Reinhardt was one of the principal functions of the WVHA during its entire existence, and at least in its later phases it was exclusively directed by the Chief of the WVHA.

Globocnik seems to have been a sensitive man. He was afraid of being considered as a person of limited talents. After he had been transferred to Yugoslavia, he felt constrained to prepare a report on his accomplishments in Poland which would end any doubt as to his thoroughness and versatility. The report consists of a letter to Himmler with several appendices, each dealing with different phases of the Action Reinhardt. From the letter, it is plain that the chief purpose of all this documentation was to show Himmler that Globocnik was a shrewd business man as well as a capable executioner.

According to this report, the Action Reinhardt was as subtly conceived and carried out as any plan which contemplated the extermination of a substantial part of the population of Europe could be. It progressed by easy stages.

First, the Jews were uprooted from their homes and transported to ghettos. At this stage of the game all of their real property and movables which could not be carried with them were confiscated. This included, of course, all industrial plants and all the physical assets of businesses in the East which were owned by the Jews. When they had been rounded up, herded into the ghettos, and furnished with special identity cards and insignia to be sewn on their clothes so that they were easy to recognize, they were then left alone for a while until the SS could organize the

utilization of the confiscated business property and prepare the next resting place for the Jews.

When this period had elapsed, they were "resettled" a second time by being shipped from the ghettos to the concentration camps, where the first thing that happened was that they were stripped of the remaining property which they had, such as currency, watches, jewelry, fountain pens, and the like. Then, in due course, they were asphyxiated in the gas chambers and incinerated, after all the bridges, gold teeth, and fillings were removed from their mouths. It is a boast of the great American packing companies, such as Swift and Armour, that when a pig goes through one of their slaughter houses nothing is wasted except the squeal. These defendants can without any immodesty make the same claim. The commandant of the concentration camp at Auschwitz estimated that during his tenure of office over 2,500,000 persons were so processed under his personal direction. Auschwitz, of course, was only one of several extermination camps in the East. It is estimated that about 8 or 10 million people were eventually reduced to ashes in these crematoria.

We have described the general pattern of the Action Reinhardt. We do not mean to imply that these successive transportations took place with assembly line precision. In the first place, it would have been wasteful to have destroyed this potential labor supply too soon. While they were in the ghettos, and even while they were in the concentration camps, they were used as slave labor by the SS to man the industries which it had confiscated. Jews with special skills were deliberately cut out from the herd and temporarily preserved. Further, it was impracticable in the nature of things to accomplish all of this overnight. After all, the crematory had a limited capacity and could only be operated 24 hours a day. It would have been unhygienic to asphyxiate Jews and Poles faster than the corpse disposal facilities could accommodate them. It was tried in several cases and proved to be untidy.

In the opening statement, the destruction of the Warsaw ghetto was described in some detail. This was a notable chapter in the narrative of the Action Reinhardt for several reasons. In the first place, the Warsaw ghetto was one of the largest in Poland and the extinction of all the persons who lived there was a noteworthy stride toward the goal of the whole action. In the second place, it was particularly dramatic because the Jews there had the audacity to try to defend themselves, and, when that proved to be futile, had the further impudence to try to hide in the cellars and sewers to keep from being sent to the extermination camps. The whole incident, therefore, furnished some diverting excitement for the SS and army personnel who were detailed to clean

out the ghetto and the scene was made more colorful by the methods they employed, such as setting the houses in the area on fire and throwing smoke bombs down the manholes that led into the sewers. It made dramatic copy for the German newspapers and it furnished good material for a long memorandum to Himmler by the persons in charge. The SS had a photographic team on hand to immortalize the whole operation on celluloid, and a number of these pictures have been introduced in evidence here. They are in prosecution document book 20, pages 56-109. (1061-PS., *Pros. Ex. 503.*)

But the demolition of the Warsaw ghetto, carried out by Amtsgruppe C after the Jews had actually been exterminated, was no more than an incident in the execution of the Action Reinhardt and if we think of it as more than that, we lose our perspective and sense of proportion in judging the extent of the Action Reinhardt. To consider the Action Reinhardt as synonymous and coextensive with the Warsaw ghetto action is analogous to using the names Guadalcanal and World War II interchangeably. In both cases, the latter was merely a bloody episode which took place in the course of the former.

August Frank said that he always considered the Action Reinhardt as a move to "utilize the property of the Jews." This indeed was one of its principal objectives, although, of course, it had the further purpose of achieving a "final solution of the Jewish problem"; this is, of wiping out the Jews in Europe completely. The aim was double-barreled and the two objectives were inseparable. The defendants here, however, all fall back on the plea that although they may have known about the confiscation phase, they never dreamed of the existence of the extermination phase out of which the former grew. This is as far-fetched and implausible as most of their other defenses, especially in view of the fact that in document after document spectacles and dental gold are specifically alluded to as constituting part of the confiscated treasure.

While the seizure of this wealth was in progress, the WVHA had the responsibility of deciding how it was to be used to the best advantage. The proclamation of this decision was made through the issuance of August Frank's notorious distribution order of September 1942 to the chiefs of the SS administrative camps at Lublin and Auschwitz, where the personal property had been collected. This directive, part of which we have already read, gave complete details for sorting, classifying and shipping all this property to its proper destination.

The jewelry, precious metals, gold teeth, and currency would be taken to the Reich Bank by Melmer, who was in charge of the treasury under Hans Loerner in A II. The fountain pens, flash-

lights, alarm clocks, and damaged watches were to be sent to the shops at Oranienburg to be repaired by office D II, which was under the defendant Sommer. An inventory of the furs and hides was to be sent to Georg Loerner's office B II, and the articles themselves were to be sent to the clothing plant of the Waffen SS at Ravensbrueck. Office D III was concerned with the obtaining of the dental gold. Dentists in the concentration camps who were all subordinates of the defendant Pook actually supervised the extractions from the corpses and submitted periodic reports of the dentures obtained in this way to office D III. Pook's underlings were also charged with scraping, cleaning, and sterilizing the teeth before they were eventually sent to the Reich Bank; typhus and tuberculosis bacteria were omitted from the distribution list. Kammler, chief of Amtsgruppe C, was in charge of the demolition of the Warsaw ghetto and the defendant Kiefer was his deputy at the time this work was carried out.

Such was the disposition of the personal property which was seized in the course of the Action Reinhardt. But the problem of the utilization of the machinery, industrial plants, and real estate was delegated to Amtsgruppe W. It was decided to organize a corporation called OSTI, a subsidiary of DWB which was supervised by staff W.

The purpose of OSTI was to combine the industrial potential seized in the course of the Action Reinhardt with the vast labor pool of concentration camp inmates so as to make the most economical use of both. Industrial machinery was moved from its former locations and centralized in huge factories either within the concentration camps and labor camps or conveniently near them. The maximum production was expected as a result of this concentration of plant and labor supply.

OSTI was eventually dissolved in 1944. From the very beginning, the ranks of its workers had been decimated by the pestilences which swept unchecked through the camps, as well as by starvation, exposure, impossible working conditions, and the brutality of the guards. This slowed down its operations. But the real reason for the dissolution came later.

Now we have just said that the SS always regarded the stay of the Jews and Poles in the concentration camps and labor camps as a temporary one. It was always understood by the SS that, so far as these people were concerned, heaven was their destination and their departure was to be postponed only long enough for the facilities of the murder centers at Auschwitz, Lublin, and Treblinka to be expanded. By a grim irony, these wretches who had been marked for extermination were made to produce the engines which were later used to kill them. Document NO-4465,

Prosecution Exhibit 660 in document book 28 is a letter from the construction chief at Auschwitz, Bischoff, an official of Amtsgruppe C. The letter is addressed to the DAW, one of the W industries, and reads in part as follows:

"You are informed with reference to the above-mentioned letter that three gas-tight chambers are to be completed in accordance with the order of 18 January 1943. They are to be exactly similar in measurements and type to the chambers previously supplied."

"On this occasion we would remind you of a further order of 6 March 1943 concerning supply of a gas door 100 x 192 for corpse cellar I of crematory III, BW 30a, which is to be manufactured exactly according to type and measurement of the cellar door of the opposite crematory II with a peephole of double 8 mm. glass with rubber packing and steel frame. This order is to be treated as especially urgent."

Apparently the order was filled in time. By autumn of 1943 it was felt that the gas chambers and crematoria had reached a state of perfection, sufficient to complete the solution of the "problem" caused by the existence of these inmates who were being used during the interim as slave labor in the various factories of OSTI. On November 3, 1943, as the documents show, all the Jewish workers who had been employed by OSTI were liquidated and put in the stoves. This withdrawal of most of its labor force wrecked OSTI's productive capacity, and after several abortive attempts to continue it as a going concern, Pohl finally gave it up as a bad job and concluded to dissolve it.

Such, in a nutshell, was the role of OSTI in the Reinhardt Action. We will mention only one other phase of it before we pass on to a discussion of the activities of the individual defendants. We have described how, according to Frank's directive, the cash, jewelry, and precious metals acquired in the course of the Reinhardt Action were to be taken to the Reich Bank. There the German currency was deposited in "Account 1288", commonly called the Reinhardt account. The jewelry, trinkets, and teeth were assorted into two classes. The articles that were considered valuable only for the precious metals they contained were melted down and the ones that were thought to be more valuable if sold in their original form were sent from the Reich Bank to the municipal pawn shop and there disposed of. Eventually, therefore, all of this wealth was reduced to a credit entry in the Reinhardt Account.

The question then arose how to dispose of this money to the best advantage and this again was a decision which was the responsibility of the WVHA. The financial affairs of some of the W

industries were considerably entangled. Some of them owed money to creditors such as the German Red Cross and the SS Savings [Bank] Association, which was under the control of the defendant Hans Loerner in Amt A I. It was decided to pay off all such claims to third party creditors. At about this same time, Pohl wanted to expand the armament industries which were owned and operated by the DWB, and the officials of OSTI were also clamoring for a loan. It was decided to take care of all these matters by transferring 30 million marks to the DWB, which would then pay off the third party creditors and make the loans to expand the armament industries and to capitalize OSTI.

These matters were discussed and settled in June 1943, and eventually the whole transaction was reduced to a contract between Frank, acting as representative for the German Reich (which technically was the owner of the Reinhardt Fund), and Pohl, acting as representative of the DWB.

Thus, it can be seen that the WVHA was not only the agency which supervised and directed the collection of property confiscated in the course of the Action Reinhardt, but it was also the agency which controlled the spending of the money into which this wealth was converted; and it can also be seen that the W industries, which were part of the WVHA, were approved as borrowers. The WVHA, then, had a triple function in the carrying out of the Reinhardt Action: it acted as a collection agency, as administrator, and as beneficiary. One would have to strain his imagination to think of a closer possible connection.

We will now take up the tasks of the individual Aemter within the WVHA and the activities of these defendants in accomplishing those tasks.

The concentration camps were under the immediate supervision of Amtsgruppe D, and it was through this part of the WVHA that every minute, every detail, of the life of the inmate was rigidly regulated. Amt D IV had an administrative official in every concentration camp. Amt D II had a labor allocation officer in every concentration camp. Camp security and inmate affairs were regulated on the spot by D I, and D III had responsibility for their medical and dental treatment, such as it was.

The organization of this Amtsgruppe and its place in the WVHA explodes the defense that the RSHA, which had "legal" jurisdiction over arrests, releases, and punitive executions, is primarily responsible for what went on in the concentration camp. Only the WVHA had officers in the camp who were to look after food, clothing, billets, medical and dental care, labor commitments, and camp security. No other Main Office had the necessary support in the way of construction, supplies, finances, and means

of using labor that the WVHA had from its Amtsgruppen C, B, A, and W.

The defendant Sommer was chief of the Main Department in charge of labor allocation in Amt D II and deputy chief of the Amt. After the Inspectorate of Concentration Camps became a part of the WVHA, D II was the most important office in the concentration camp system. Sommer's orders transferring inmates to the construction projects of Amtsgruppe C, to the SS industries and to armament projects were tantamount to death orders for thousands. He was the labor allocation expert, and his talents were the bearings on which the vast organization revolved. Large transports of inmates from one camp to another were handled by Amt D II, and the record is full of descriptions of the deaths and mistreatments which occurred during these hauls. Sommer must have known of the way his function as labor allocation expert fitted in with the initial separation of the inmates, when the transports arrived at the camp, into those who could and those who could not work. The Tribunal will recall the witness who described how those who could be allocated for work were driven to the right, those who could not work to the left. The way sinister led to the gas chamber. The same is true of the transports from the work camps and smaller concentration camps to the nearest gas chamber of invalids who were unfit to work.

Sommer could not have been oblivious to the constant revisions of the total number of inmates available for labor. When his lists showed a decrease, he is bound to have known that these people had disappeared somehow, and that it was unlikely that they were on vacation.

Sommer was involved when inmates were marked for death in the punitive details at the stone quarries. He signed the orders sending them there, and a few days later his representatives in the camp were notified of the death of those inmates. Sommer's part in the Action Reinhardt in receiving and repairing the watches and clocks has been mentioned. He could not have been ignorant of their source. The boxes he received were clearly marked, "Action Reinhardt," and if others down the line were deceived as to the origin of this loot, then it was because all identifying marks had been removed in the repair shops at Oranienburg.

The participation by Pook, the chief dentist in D III, in Action Reinhardt has also been referred to. It was the task of his subordinates in the concentration camp to supervise the extraction of dental gold from the cadavers after they had been removed from the gas chambers. Pook was the superior of scores of camp dentists following this procedure in every concentration camp.

His men received the gold whether the inmate had been gassed, beaten to death, or shot, and whether or not in the course of the Action Reinhardt. Pook knew that these inmates had not died natural deaths. No one was in a better position to find out. He worked in Lolling's small but powerful office as Lolling's immediate subordinate; his office, like Sommer's, was within a stone's throw of the notorious concentration camp Sachsenhausen; he made innumerable duty trips to the various concentration camps. He ordered that anesthetics be dispensed with, and told one of the camp dentists that too much consideration was being shown in the treatment of inmates. In our consideration of the tasks of Amtsgruppe D, we must not forget a rather special group of crimes committed in the concentration camps, the medical experiments on involuntary human guinea pigs. Thousands were murdered and tortured by freezings, poisonings, infections, and sterilizations. These acts were perhaps the most spectacular of all the war crimes and crimes against humanity. The judgments of the International Military Tribunal and of Military Tribunal No. 1 in the recently concluded case against Karl Brandt *et al.*, have established their criminality beyond all doubt.

While there is credible evidence in the record that a number of the defendants were connected with criminal medical experiments, the prosecution is content—in order to simplify the issues—to limit this aspect of the case, so far as personal participation is concerned, to the defendant Pohl. This man, as chief of the WVHA, was a necessary party to these crimes. Concentration camp inmates were the unwilling victims of the experiments. They could be made available only through Pohl and Amtsgruppe D. On 4 December 1942, Maurer, chief of Amt D II, directed that prisoners assigned for experimental purposes should be listed as such on the daily roster, and that directors of employment should be informed accordingly. In a letter of May 1943, Pohl considered the appointment of a doctor to supervise all experiments in concentration camps, so as to relieve Amt D II's Lolling of that responsibility. He stated that eight to ten series of experiments were going on at that time. After May 1944, the consent of Pohl's subordinate Gluecks had to be secured before any experiment could be performed on inmates.

Although he was not a doctor himself, Pohl had a detailed knowledge of most of the experiments and he took a personal interest in several. In his own affidavit, he admitted knowing of the malaria, high-altitude, freezing, blood coagulation, gas, and sterilization experiments. He was also candid enough, before the trial began, to concede that the experimental subjects were not volunteers and that non-German nationals were frequently used. Pohl

witnessed some of the high-altitude experiments in company with Himmler. Pohl encouraged efforts to develop a cheap and effective method of mass sterilization, the sole purpose of which was to destroy the Jews while temporarily preserving those capable of work * * *. At the same time, Clauberg was performing sterilization experiments in Auschwitz on women. Pohl stated self-righteously that he "declined Clauberg's invitation to see his experiments".

Pohl initiated the food experiments in Mauthausen, which resulted in the death of a substantial number of inmates. He personally approved of the allocation of no less than 400 inmates for the murderous typhus experiments by Haagen in Natzweiler.

Were there no other proof in the record, the evidence on the criminal medical experiments would require the condemnation of Pohl. No sentence, however severe, can atone for these crimes * * *.

MR. HIGGINS: We now turn to the defendants in Amtsgruppe W. No group of men in Germany is more directly responsible for the working to death of thousands of concentration camp inmates. The SS industries originated as concentration camp enterprises in Dachau and Oranienburg and never became anything else. They were in many instances the heart and center of the camp. The DAW plants grew out of the workshops in the camps and the locations of many camps were chosen because of their proximity to the stone quarries operated by DEST. Time and time again the record here has confirmed the accuracy of the statement contained in the lecture material sent to Fanslau that the purpose of the SS industries was:

"to get hold of all anti-social elements, which no longer had a right to live within the National Socialist State, and to turn their working strength to the benefit of the whole nation. This was effected in the concentration camps. The Reich Leader SS, therefore, delegated SS Obergruppenfuehrer Pohl to set up concentration camp enterprises. In addition, he gave orders to establish companies on a private economy basis for the purpose of employing the prisoners."

"National Socialism maintains this point of view: The State gives orders to the economy. The State does not exist for the benefit of economy, but economy exists for the benefit of the State."

Another memorandum written by an office chief of the SS industries states that:

"The tasks were set by the Reich Leader SS in his capacity as Reich Chief [Leiter] of the NSDAP. This applies in particular to the enterprises founded by the authority of the Reich

Leader SS. These receive allocations of concentration camp prisoners as workers in order to be able to master the economic tasks of the Four Year Plan.”

“The large-scale use of the labor of concentration camp prisoners by the Reich Leader SS is therefore a measure of the NSDAP, as the ‘Dynamic element’ in the state.”

The treatment which the inmates received while they worked in the W industries indicates that these defendants used human fuel for the National Socialist dynamo.

Under W I and the defendant Mummthey were the lethal stone quarries of the SS. The Flossenbuerg, Mauthausen, Gross-Rosen, and Natzweiler quarries were all taken over by DEST before or at the same time concentration camps were established there. The same is true with respect to the brickworks at Neuengamme and Stutthof concentration camps.

These devilish enterprises multiplied like toxic mushrooms. By May 1941, DEST had brickworks at Oranienburg, Neuengamme, and Berlstedt; granite works at Mauthausen, Flossenbuerg, Gross-Rosen, and Natzweiler; and a stone processing plant at Oranienburg. Additional plants of DEST were the gravel works at Auschwitz and Treblinka; a granite quarry at Blizyn; a clinker works at Linz; near Mauthausen; debris-utilization plants in Essen, Duesseldorf, and Hamburg; the stone quarries of Beneschau near Prague, and the Southern Styrian Granite Works at Marburg [Maribor]. Except for the last two named plants all of these industries used concentration camp labor.

At least fifteen thousand inmates were working at one time in the plants subordinated to Amt W I, and the turn-over was rapid.

DEST also produced armaments with inmate labor during the war. At Flossenbuerg, Messerschmitt supplied the raw material and machines and DEST furnished the inmates, work locations, and some of its equipment. Munitions were also produced by DEST at Mauthausen, Sachsenhausen, Natzweiler, and Gross-Rosen. These armament projects, like the stone quarries and brick plants, were controlled and supervised by the defendant Mummthey and Amt I.

The way of a transgressor of the strict regulations led straight to one of the punitive companies of DEST, where life expectancy was particularly short. Twenty to thirty of the two hundred inmates assigned to the punitive detachment perished each day at Mauthausen. The record drones in monotonous repetition of inmates shot, inmates hanged, inmates starved, worked to death, beaten, and scourged.

We have already described extensive operations of the WVHA

in the Eastern Occupied Territories. One of the most important of these WVHA operations was carried on by the defendant Bobermin, chief of Amt II. This office played a large and essential part in the exploitation of Poland. It operated the brickworks which had been seized from the Jews there. More than 400 such plants were under Bobermin. These plants were taken from Jews and Poles, most of whom, according to Bobermin, had fled. The reason for their fleeing—those who were fortunate enough to live to flee—was of course to escape the Sonderkommandos and Einsatzgruppen. A report made by the defendant Volk, which shows intimate knowledge of the operation of the Eastern plants, casually remarks that a large part of the workers had died during the war, had escaped, were prisoners of war, or were sent to the Reich to work.

The whole world knew that thousands of dispossessed Jews and Poles were being methodically wiped out by the SS and SD, but SS Obersturmbannfuehrer Bobermin, ensconced in his office at Poznan and devoting his entire time to the management of over four hundred plants whose labor supply came mainly from the ghettos, never heard a word of all this until after the war. The revelation must have been a shock to his whole nervous system.

He had 80 plants in the Lodz area, and the record tells of the murder of thousands in the ghetto there, but Bobermin heard nothing. Truly, he must be one of the most disillusioned men in all of Germany.

The International Military Tribunal found that one-third of the population of Poland was killed in the course of the German occupation, but Bobermin testified that he did not hear of a single instance in which a Pole was mistreated. In the acquisition of the property of these Jews, Bobermin insists on a distinction between seizure and confiscation. Seizure, he says, means that the property will be returned to the owners some day. A kind of corporate trustee to take over Jewish property was in fact set up. But most of the Jews were killed before the trustee organization East took possession, and no one seriously expected Goering and Himmler ever to seek out their collateral heirs.

Here we find another instance of the WVHA organizing, and utilizing the stolen property of murdered people. When Bobermin came into Poland, he was not technically attached to the Einsatzgruppen. But his function was to thresh what they had harvested. The prosecution charges that he either knew of the source of this property, or that he deliberately closed his eyes to what was taking place.

Inmates and guards from the nearby camp were used in the great cement works near Auschwitz, another project of Bober-

min's. He visited the plant several times. He knew that when inmates were no longer able to work, they were sent back to Auschwitz but he had no idea, he claims, that they were to be exterminated. We were not able to find an inmate from the survivors of Auschwitz who had worked in Bobermin's cement factory. Considering the legions who went up the chimney at this infamous camp, this is not surprising. But the evidence has shown that the treatment of slave labor was uniform, and that when an inmate who was too weak to work was sent to Auschwitz, he was only furnished with a one-way ticket.

The defendant Klein was office chief of W VIII, the office for so-called special tasks, which was in charge of the reconstruction of Wewelsburg. The concentration camp Niederhagen was established for the purpose of supplying inmate labor for this project and hundreds of inmates died from overwork, starvation, and cruelties of the guards and foremen. Klein's periodic situation reports to Pohl are part of the record and show that Klein considered the Wewelsburg enterprises as his most important task and that he was fully informed about every phase of it, including the allocation of inmate labor. The documents show his dissatisfaction with the number of inmates available for the construction, and his attempts to increase the number of inmates in the camp at Wewelsburg. They also show his negotiations to obtain construction material and together with the defendant Frank, additional funds for the project. He reported to Pohl on the exact number of inmates used, and the state of the work in progress. These reports were also distributed in staff W. In 5 months 1,200 inmates died, out of a total of 1,800 in the Wewelsburg camp. The deceased inmates came from ten different countries. A resident of the nearby village testified that the high death rate and mistreatment of the inmates was public knowledge, even though the inhabitants tried to notice as little as possible.

The Kranichfeld building project, which used inmate labor, was also under W VIII and its status was included in Klein's reports. In February 1944 Baier, chief of staff W, wrote to Klein that he had discussed allocation of prisoners for Klein's office with Maurer and that for the time additional inmates from Buchenwald could not be supplied for one of Klein's projects.

Klein was also involved in several confiscations of foreign property. Although his office was interested in only part of the Lobkowitz property, Klein investigated the entire estate. His letters state that he had negotiated with the regional Gestapo headquarters and with the RSHA in the confiscation proceedings. He recommended confiscation of the entire property. He wrote to the defendant Hohberg that "The transactions in the Lobkowitz

matter are to be carried out by this office." Hohberg a short time later advised Klein that "the confiscation decree is ready to be sent out." The property was seized by the regional Gestapo headquarters and fell into the grasping tentacles of the Reich. Klein was also for a time Prokurist of the Nordland Publishing Co., under Amt W VII which will be mentioned presently.

Klein has produced affidavits to show that he was only in charge of obtaining funds for the enterprises under his office, W VIII. Even if this ridiculous contention were true, Klein's connection with these dacoities and murders would be sufficient to establish his guilt, but the documents show that his activities went further.

The defense, that his position as office chief actually carried with it no power over the enterprises in his office, is a commonplace now. Mummerthey claims that his title was only fiction, and Bobermin testified that he received his only because it simplified the seating arrangement at banquets. Amtsgruppe W documents show, however, that office chiefs were considered as Pohl's deputies in their sphere of office, and that the Fuehrer principle strictly applied. It is not to be forgotten that this principle works both ways—it not only pushes the supreme authority up, but it holds the immediate subordinate strictly accountable for everything happening within the scope of his authority.

In addition to the economic enterprises which have already been described, Amtsgruppe W had its own printing firm to disseminate the Nazi gospel. Here is how this purpose was described in the lecture material which was prepared in the legal office of staff W and approved by Fanslau:

"The circle of the economic enterprises of the SS would not be completed, if it did not also have a great publishing office, to introduce the ideological views of the SS to its SS members and further to additional circles of the population. The Nordland [Northland] Publishing House Ltd., had developed a great deal during the last year, and now belongs to the main publishing firms, and already today occupies the fifth place among the main publishing firms of the greater German Reich. Besides this Nordland publishing firm, we have the Voelkischer Kunstverlag, which in the main produces pictures, e.g., photographs of the Fuehrer, the Reich Leader SS and other important personalities from Party and State. In addition, it produces reproductions of oil paintings."

In addition, Nordland produced, it might be added, such booklets as "The Subhuman," in evidence here, which promoted the idea that Jews and Russians are members of a degenerate species unfit to be regarded as human beings.

Integration and coordination of the many extensive tasks of

Amtsgruppe W was complete. Hohberg, chief of staff W, drafted and Pohl signed a letter which explains this unity:

"The liaison between parent corporation and subsidiaries is so close that as regards economy one cannot speak of independent enterprises but in some way of branch departments of the parent corporation * * *. To the person not concerned it might appear as if all these enterprises were not connected with one another. However, that is not the case."

Such close harmony between so many enterprises could only be accomplished by men of considerable genius and influence. These men constituted staff W. Pohl instructed all of the Amt chiefs of Amtsgruppe W "to cooperate very closely with the staff," and that there should be "regular cooperation."

Staff W was in fact Pohl's right hand in his managerial functions. Pohl's business order provided that office chiefs were to report to him after consultation with and in the presence of chief W, and that constant liaison was to be maintained. Pohl was of course the supreme authority, but he was not able to direct everything by himself, and to that extent staff W supervised the SS industries from the top level. Thus, in Baier's affidavit, he says that as chief of staff W he supervised the directors of the DWB in financial matters and asked questions concerning plant management, and that Hohberg had preceded him in that capacity. This is corroborated by Pohl's pretrial statement that, "he (Baier) was in charge of the holding companies under me"; and again, on the stand, that "Staff W was the instrument which I used as the sole business manager of the DWB when I supervised the economic enterprises."

The defendants in staff W tried to disassociate themselves from the business order of November 1944 which emphasized their importance by saying that the order came so late that it never was put into effect. But a witness called by the defense as an expert on staff W testified that, "actually this order only confirmed the conditions which already existed in the WVHA". He also told how Baier made efforts to have his authority within Amtsgruppe W increased. When Pohl issued an order which somewhat reduced his power, "Baier was very much bothered * * *. He was shocked". Baier complained that he would be of no importance in the Amtsgruppe if this order were carried out, and made proposals to Pohl which were adopted and incorporated into the basic order of business. The same witness testified that Hohberg, who had preceded Baier as chief of staff W, exercised more influence than Baier did, and that Hohberg was the economic brains of Amtsgruppe W.

Hohberg, realizing the importance of the position of staff W, claims that he was only an auditor there and never its chief. But

the documents prove the contrary. They show that he signed on many occasions as chief of staff, and was referred to by others in the office as the chief of staff. The reason he avoided flaunting his title too flagrantly before outsiders was that he was afraid that the Institute of Auditors and the Reich Minister of Economics would object to his taking an official position with the WVHA. His fears in this respect were finally borne out, according to a defense witness, when the Reich Minister of Economics ordered that the DWB was thereafter to be audited by an independent auditor. This completely exploded Hohberg's contention, that he left his position, because he disapproved of the WVHA's activities, just as one of his own witnesses had punctured his defense that he had joined the WVHA to collect material against the SS, by letting the cat out of the bag that Hohberg was trying to dodge the draft and that he preferred to work for the SS rather than to go to the Wehrmacht.

The defendants Volk and Baier, as well as a witness for Baier, all from staff W, testified that Hohberg was chief of staff [W] and Pohl testified that the designation was correct. Hohberg should not have relied so heavily upon the SS covering up for a nonmember. There was some justification for his reliance, however, because when he and Volk were in prison in the British Zone, Hohberg, according to Volk's testimony, became worried about the position he had held and asked Volk to give him an affidavit. Volk obliged and even went to the extreme of saying in it that there was never such an office in existence, nor did it have that name, nor did it perform any functions for the Party or the SS or the Reich. But the ties of blood-brotherhood did not exist for Hohberg, and he was thrown overboard here in Nuernberg. On the stand, Volk testified that the chief of staff W was a position just as real as the positions of any other office chief from W I to W VIII and that Hohberg held it.

Perhaps the most ridiculous defense asserted here is Hohberg's claim that, while he was working for the SS, he was sabotaging the SS by secretly transferring its industries away from it. This he was doing, he says, by financing them from funds of the Reich, rather than using Party funds. There are three answers. First, he could not have been so stupid as to think that Himmler, Reich Leader SS, would pay any attention to Hohberg's bookkeeping entries if an issue were ever raised. Second, it could be of no possible concern to the SS whether the industries were technically owned by the Party or the Reich: they would still be under Himmler and the SS. Himmler was a Reich official as well as a Party official and the Waffen SS was his agency in Reich matters. Third, Hohberg knew that the Reich was just as criminal in its activities

as the Party. The concentration camps were Reich concentration camps; loot from the Action Reinhardt became Reich profits; and the extermination program was a Reich program. And for the inmates it could make no difference whether they were dying in Reich industries or Party industries.

The defendant Volk, the third member in the dock from Amtsgruppe W, also attempts today to reduce his position in staff W to that of an office boy or messenger. At most, he would have us believe, he was just the attorney for the industries. Actually he was much more than that. He held positions in so many SS industries that, that was given as the reason for his lapse of memory regarding some of them. In addition he was Prokurist of DWB, the head of the legal office in staff W, deputy to the chief of staff W, and Pohl's personal legal assistant. In this latter position he claims that he dealt only with Pohl's personal matters, but this is contradicted by his testimony that in many cases it was impossible to determine in which of his capacities he was acting. Even his secretary, he said, could not tell.

It is of course inevitable that by reason of their positions the defendants in staff W, Hohberg, Baier, and Volk would have intimate contacts with the use of inmate labor in the SS industries. Even if documents were not available to prove individual instances, that much would have been clear from the table of organization. But the documentation fully bears out their continuous participation.

Only a few examples need be recalled—negotiations by Hohberg, when the workshops in Dachau concentration camp were reorganized, and incorporated into the DAW; negotiations establishing the amount the Reich was to receive for the rental of inmates to the SS industries; settlement of claims against the central insurance account under staff W for business losses caused to SS industries by insufficient supplies of inmates; negotiations by Baier with Maurer and Klein for inmate labor used by Amt W VIII; negotiations by Baier and Vogt for guards and barracks for inmate laborers to be used on the slate oil project, and the reports sent to staff W by the German Slate Oil Company, of which Vogt was a partner, on the appalling death rates of the inmates; negotiations by Baier with the Auschwitz concentration camp for barracks for inmates to be used by the Gentellent firm; supervision of OSTI; participation by Hohberg, Volk, and Baier in loans from the Reinhardt fund; the part staff W played in converting Stutthof into a concentration camp; and Baier and Volk's trip to the Lodz ghetto to recommend to Pohl whether it should be converted into a concentration camp.

The result of the Lodz investigation was that the ghetto was

destroyed, and thousands of Jews were killed. Greiser wrote to Pohl, sending a copy to Baier and Volk, that "The ghetto Lodz is not to be transferred into a concentration camp, as was emphasized by SS Oberfuehrer Baier and SS Hauptsturmfuehrer Dr. Volk." He went on to report that the personnel of the ghetto would therefore be reduced through the action of a Sonderkommando. Both Baier and Volk claim to know nothing about this matter, although the memorandum was addressed to them. Another memorandum which Dr. Horn of OSTI said he was forwarding to Baier and Volk reported that Eichmann and Kaltenbrunner were interested in the matter, and that before Baier and Volk went to Lodz, there were 5 hundred "reductions by death" per month in the ghetto.

The infamous OSTI was under the supervision of staff W, and Hohberg and Volk were present at the conference at which OSTI's aims were fixed—the utilization of Jewish property and Jewish labor.

We have already referred to the essential part which Amtsgruppe C, the construction department of the WVHA, played in the concentration camp system, the extermination of Jews, and in the demolition of the Warsaw ghetto. Kiefer was the senior office chief and deputy chief of the whole Amtsgruppe while this latter assignment was being carried out.

During the war, Amtsgruppe C undertook large-scale construction of buildings and plants used in the munitions industries. This project became the largest user of concentration camp labor. The office within Amtsgruppe C, which was competent for the drafting of construction plans for armament installations, was under the defendant Kiefer.

The construction office from its beginning was an integral part of the concentration camp system. It built and maintained the concentration camps, and used inmate labor in all of its building projects. The history of the supervision of concentration camp construction by the WVHA goes back to the first concentration camp, at Dachau. In November 1933, building matters for the Dachau camp were taken over by the Verwaltungsamt SS from Eicke. Eirenschmalz became chief of the construction office in the administrative office in 1935 and a letter written by Pohl to the SS Main Office in 1937 states that Eirenschmalz was responsible for the numerous construction projects carried out by that agency. The blueprints and documents prove that one of the projects for which he was responsible was the construction of the Buchenwald crematory. In the WVHA both Kiefer and Eirenschmalz were concerned with construction projects in the concentration camps. The table of organization and the blueprints show that Kiefer

drew the plans for sick barracks for the inmates and troops in the concentration camp. Blueprints bearing Kiefer's signature for such construction projects in the Auschwitz concentration camp are in evidence. The documents show that Pohl's office retained control over the construction of crematories and gas chambers to the end. The famous gas chambers and crematories known as "Barracks X" at Dachau were ordered, checked, and approved by the WVHA. Amt C I and C III planned and supervised the construction, and the job of making a preliminary examination of the expenses of such projects.

There is positive proof that Eirenschmalz, chief of C VI, made such preliminary examination of the accounts in the building of the gas chamber Auschwitz. Eirenschmalz also checked and approved applications for maintenance work in the concentration camps. These were Eirenschmalz's contribution to the solution of the problem of the inferior races—the Jews, Poles, and Russians.

Amtsgruppe B of the WVHA was the supply department for the concentration camps. Its chief was the defendant Georg Loerner, its deputy chief was the defendant Tschentscher (who was also in charge of the food office), and the defendant Scheide was the chief of the transportation office. The many diversified functions of Georg Loerner illustrate the complete integration of the various Amtsgruppen of the WVHA. In the first of the SS administrative organizations which preceded the WVHA, the Verwaltungsamt SS, Georg Loerner was chief of the Main department V 3, responsible for clothing the inmates and for supply of clothing for the Death Head units. When this bureau was reorganized, Georg Loerner became the budget chief of the Main Office [Budget and Buildings]. One of his sub offices, I/5, was in charge of labor allocation of inmates. In the WVHA, he was chief of Amtsgruppe B, responsible for food and clothing for concentration camps, deputy chief of Amtsgruppe W and second manager of the holding company of the SS industries, and deputy chief of the entire [Economic and Administrative] Main Office.

In these various offices Georg Loerner was successively responsible for supply, finance, for labor allocation, and for the SS industries.

In the previously mentioned W offices subordinated to Georg Loerner his responsibility for supply, for finance, for labor allocation, and for the SS industries was definitely established. When anyone talked to Georg Loerner, they were talking with an expert in every aspect of the WVHA.

The proof establishes his responsibility and that of his deputy and chief of office B I, for inadequate clothing and for insufficient food. The contention that the food office was not responsible for

food is not credible. Specific instances are proved by witnesses in which Tschentscher did handle concentration camp food. The repudiated pretrial statement of Pohl and the repudiated affidavits of Frank, Vogt, Fanslau, and Georg Loerner himself, all show that Amtsgruppe B was the highest authority for concentration camp food and since these statements are corroborated by established fact, they should be accepted as true.

That Tschentscher had large supplies of food on hand while inmates were starving to death is not disputed. The evidence shows that inmates died during the winter months from insufficient clothing. Clothing factories under Loerner used inmate labor. Loerner, and Tschentscher as his deputy, have special responsibility for Action Reinhardt.

Georg Loerner, Frank, and Pohl visited the Reich Bank and were shown the contents of the vaults by Emil Puhl. Puhl told them that their things were among the loot there. Loerner prepared a report on the 825 carloads of textiles which came from the concentration camps Auschwitz and Lublin. Burger of Amtsgruppe D reported to him that clothing was coming from "Actions in Auschwitz and other camps." The same report refers to arrivals in concentration camps from the "Hungary Program" (Judenaktion), from the Lodz ghetto, and to the arrival of 400,000 Poles from Warsaw. Loerner as deputy chief of Amtsgruppe W could have done something about conditions in the SS industries, but he preferred to abdicate his authority to members of staff W.

The defendant Scheide, chief of Amt B V, was in charge of the entire transport system of all the Amtsgruppen of the WVHA. He supplied trucks and other motorized equipment and arms and ammunition to Amtsgruppe D.

But one word now, before we leave the defendants of Amtsgruppe B. There is a mass of evidence concerning the activities of Tschentscher while he was with the SS Viking division during the Russian campaign in 1941. This will be briefly discussed in a moment, along with the activities of his fellow officer Fanslau.

MR. FULKERSON: Office A I through A V of Amtsgruppe A were under the supervision of the defendant August Frank, until September 1943. Sometime after that date, Fanslau, who had been Frank's deputy, became his successor. Each office in Amtsgruppe A played an essential part in the administration of concentration camps. Hans Loerner, as chief of A I was the chief budget officer for them. Here, close coordination between Amtsgruppe A and D was required. D IV put together the various items of the budget for all concentration camps, according to Pohl "and then passed it on as part of the whole budget of the Waffen SS to Amtsgruppe

A which then reviewed the budget for the concentration camp.” In May 1942, Hans Loerner and Frank negotiated the budget for 13 concentration camps, including one for women and one for youths. Hans Loerner’s report to the auditing court concerning Stutthof shows that the chief of A I was required to have extensive knowledge of concentration camp fiscal affairs and negotiations there emphasize the close cooperation of all the WVHA offices in managing them.

Hans Loerner in the budget office and later, after April 1944, as chief of A II and as deputy chief of Amtsgruppe A, is implicated in the Action Reinhardt. It is of course unthinkable that those tremendous sums of moneys were handled without the assistance of Pohl’s chief fiscal officers. The secret directive by Pohl, in July 1944, concerning the utilization “of all movable and immovable Jewish belongings” and instructing “that the entire Jewish property is to be incorporated into the Reich property,” was sent to Hans Loerner. Pohl admitted on cross-examination that the reason this basic directive was sent to him was because, “A I was the part of the WVHA which dealt with the central regulations of this matter.” Over 6,800,000 RM from the Action Reinhardt was credited to the SS Savings [Bank] Association, another of Hans Loerner’s projects, so that the German Red Cross could be repaid the money which it had lent various SS industries through the Savings [Bank] Association. This whole transaction is very complicated; one of the wheels within wheels was that Pohl was one of the directors of the German Red Cross.

The second office in Amtsgruppe A, under Hans Loerner after April 1944, was the treasury office. It was this Amt which physically received the gold and jewelry from the murdered inmates and passed the watches on to Sommer in D II. Since Melmer, one of the subordinates of A II, was not able to join the reunion here, owing to a previous engagement, most of the criminality for this project has been blamed upon him. A III, under Frank himself, was the legal office. Its function was to handle the legal details in the purchase of concentration camp sites. A IV under the defendant Vogt audited the books of the concentration camps and checked the proceeds of the Action Reinhardt.

The defendant Fanslau was in charge of the personnel office of the WVHA which was the fifth office in Amtsgruppe A. He was Frank’s deputy and after Frank’s departure he was the senior officer there. In May or June 1944 he was charged with the direction of the entire Amtsgruppe. The proof shows that office A V under Fanslau was the personnel office within the WVHA, and that all appointments of commandants and administrative officers were cleared through it. Frank and Fanslau deny this,

but captured documents prove that it is true. The official chart drawn up in the WVHA describes one of the departments under Fanslau as follows:

“Concentration camps: replacements, releases, promotions, assignments, transfers, training (attached to Amtsgruppe D).”

In addition, actual transfers of concentration camp commanders, signed by Fanslau have been introduced as part of the prosecution's rebuttal evidence. In this connection, the proof also shows that personnel from the WVHA was transferred to the East and placed at Globocnik's disposal for use in Action Reinhardt and the Osti operations. Fanslau's denials in this respect are contradicted by these official reports.

A few remarks on the participation of Fanslau and Tschentscher in the campaign of frightfulness conducted by the SS Viking division in Poland and Russia will have to be interpolated parenthetically here. Fanslau, as administrative officer of the Viking division, was one of its highest ranking officers. Tschentscher was his deputy. They were in command of the supply battalion of the Viking division.

On direct examination, when Fanslau was asked about the mistreatment of Jews, he made the following statement:

“I may say that during my whole time of service at the front with the Waffen SS, and also with the Police, I saw nothing which indicated in any sense of the word from a human soldier, or any international point of view anything that would have been illegal. Individual offenses which happen in all armies of the world after all, so far as I could see at the time, were prosecuted legally whereby justice was done.”

We will refer to the testimony of Otto only for the purpose of corroborating the testimony of other witnesses. The testimony of Fanslau, Tschentscher, Sauer, Jollek, Goldstein, and Otto all place the supply battalion at Tarnopol and Zloczow at the very time when wholesale massacres of the Jewish population were taking place. These massacres are proved by the Einsatzgruppen as well as by the testimony of Sauer, Goldstein, Jollek, and Otto. That Jews were rounded up and forced to work in the slaughter houses at Tarnopol by the men of the supply battalion is proved by the testimony of Sauer, Goldstein, and Otto. That they were killed there was known by Goldstein, who helped to bury them, and by Otto, who heard of it. Sauer saw them mistreated there by members of the Supply Battalion. He positively identified not only the trucks but also the personnel of that unit.

That the supply battalion participated in the killing of Jews at Zloczow was seen by Jollek and Otto. Jollek knew that the men from the Viking division, particularly the personnel which was

engaged in hauling food, were among those carrying out these murders.

Sauer saw a noncommissioned officer of the supply battalion kill six Jews with a Tommy gun at another place and witnessed numerous mistreatments of Jews by members of that unit.

One of the most significant points of Sauer's testimony was that after Tschentscher was transferred, he never saw another incident of this kind. In considering Tschentscher's credibility in this matter, it should be remembered that he testified that he left the supply battalion in November 1941, whereas his own affidavit, his official transfer and his personal service record all fixed the date of his detachment from the Viking division as 31 December.

If General Yamashita * could be executed for being the commanding general in charge of troops who committed atrocities several provinces away from his headquarters in Manila, Fanslau and Tschentscher should be made to bear their responsibility for what was done all around them by men whom they knew by name.

Such then in brief is the responsibility of these defendants for the crimes with which they have been charged. Few of these men committed murder with their own hands, but all are as guilty of murder as the operators of the gas chambers in Auschwitz. The concentration camps were one of the cornerstones of the Third Reich. The enormity of the crimes committed in those lawless jungles has been amply proved, and indeed has not been disputed by the defendants. The weary months of defense testimony have rather been devoted to a denial of knowledge of that which was known to the whole world and a relegation of responsibility to dead men. If these men are not responsible for the concentration camp crimes then no one is guilty. In the absence of Hitler and Himmler responsibility for the concentration camps can be pushed no higher than these surviving members of the WVHA. Theirs was the power to establish and operate concentration camps. Theirs was the function to exploit the labor of the subjected peoples who were incarcerated behind the electric fences of the camps. Theirs was the task to make profitable the destruction of human lives on a mass basis. These things they did and gloried in them.

It is no use to say, as some have done, that they could not have prohibited the slaughter of Jews and the enslavement and degradation of uncounted millions. Even if it is true it is no defense. It may be that Hitler and Himmler could have found other men, other Pohls, Franks, and Loerners, but these defendants are the men who eagerly did his bidding. They performed essential functions and held responsible positions in the administration of

* United States Reports, vol. 327, pp. 1-81. Defendant in the Case of United States vs. Tomoyuki Yamashita, Supreme Court of the United States, in re Yamashita.

a system of murder, torture, and enslavement. They knew of the aims and practices of that system, and knowing that, devoted their best efforts to the promotion of that system. They participated in crimes of unprecedented magnitude and horror.

Justice can only be served by capital punishment.

B. Closing Statement for the Defendant Pohl ¹

DR. SEIDL (counsel for the defendant Oswald Pohl): Your Honor, the final plea ² for the defendant Oswald Pohl, which is before you now, is, as can be seen by the index, divided into 12 parts. Considering the time at my disposal, I will not read everything I have in the index and I shall limit myself to quoting certain excerpts. In order to give you a clear picture of what is contained in here, I would like to read the index into the record:

No. 1 deals with Control Council Law No. 10, and particularly with the "crime against humanity" clause.

No. 2 deals with the structure and development of the SS Administration from 1 February 1934 until 3 March 1942.

No. 3 deals with the development and position of the Inspectorate of the Concentration Camps.

No. 4 deals with the incorporation of the Inspectorate of the Concentration Camps into the Economic and Administrative Main Office.

No. 5 deals with the labor allocation of the inmates of concentration camps.

No. 6 deals with the looting and sequestration of property in the occupied countries.

No. 7 deals with the medical experiments.

No. 8 deals with Operation 14 f 13, Euthanasia.

No. 9 deals with the Operation Reinhardt.

No. 10 deals with the Warsaw ghetto.

No. 11. "Acting Under Orders", and all the main questions in that connection.

¹ Closing statement is reproduced in full as it was read in court. However, deletions from original text of speech as prepared by counsel are shown by asterisks.

² The "Final Plea" referred to was a mimeographed plea filed with the Tribunal before the delivery of the closing statement. This plea is not reproduced herein except insofar as Dr. Seidl quotes from it extensively in the closing statement on behalf of the defendant Pohl. Page references pertain to the page numbers of the mimeographed final plea as presented to the Tribunal. The expedient of referring to and reading from a written plea already before the Tribunal was adopted by Dr. Seidl after the Tribunal had made the following statement on 15 September 1947 concerning the time allowed for closing statements: "The Tribunal has before it the motion of Dr. Seidl for the defendant Pohl, asking that he be allowed six hours in which to present his argument. The motion will be denied, but three hours will be allowed. Any argument which Dr. Seidl is unable to present orally may be submitted to the Tribunal in writing and will be read and considered as fully as if he had read it in open court. The petition of Dr. Heim for two hours for the defendant Hohberg will be denied. He will be allowed the hour and a half which other counsel are allowed." (*Tr. p. 7471.*)

And finally,

No. 12, the limitations of the legal responsibility of the defendant Oswald Pohl in his capacity as chief of the Economic and Administrative Main Office.

Your Honors, in paragraph 1, I have a short legal argument which is in connection with Control Council Law No. 10 and that particularly refers to the crime against humanity. I did that in order to prevent the other defense counsel from repeating these points. I would appreciate it if the Tribunal would take judicial notice of these articles and I believe I will not read it into the record.

Number 2, which deals with the development of the SS Administration from 1 February 1934 until 3 March 1942 I shall not read. The defendant Pohl while on the witness stand described this development in great detail to the Tribunal and I direct your attention to his testimony.

I would like to turn to paragraph 3. I am reading that. That is on page 24 of this draft.

* * * * *

3. Development and Position of the Inspectorate of Concentration Camps

The creation of further concentration camps in the years 1933 to 1936, beside the Dachau concentration camp, resulted in the commander of the Dachau camp, the later SS Obergruppenfuehrer Eicke, being commissioned with the personal leadership and administration of all existing concentration camps, acting as their highest authority.

The office which was appointed for this purpose as supreme governing and supervising organ was called, "Inspectorate of Concentration Camps". Eicke himself was appointed "Inspector of concentration camps." His official residence was first in Berlin, later in Oranienburg.

The Inspectorate of Concentration Camps was the highest supervising authority for these camps. The camp commanders were exclusively and directly subordinated to and responsible to the inspector. They received all the orders and directions which referred to administrative matters of the concentration camps from the inspector alone and via him personally.

As far as police measures and executive measures were concerned, the inspector was bound by the directions and decrees of the Reich Security Main Office and, above all, of the Secret State Police Office (office IV of the Reich Security Main Office). The inspector had only to receive these directions, decrees, and

orders and to pass them on to the camp commanders. The inspector did not have any executive authority of his own. Moreover, at each concentration camp there was established a political department (department VI), which received its directions straight from the competent offices of the Reich Security Main Office. In this connection I refer to the law on the Secret State Police of 10 February 1936, excerpts of which I have submitted as evidence to the Tribunal. According to this law, the Secret State Police administered the state concentration camps through the Inspector of Concentration Camps, who was attached to the Secret State Police Office.

The Reich Leader SS, too, as chief of the German Police, issued his orders either to the Reich Security Main Office, and thus to the Secret State Police Office (office IV of the Reich Security Main Office), or to the Inspector of Concentration Camps, in exceptional cases even directly to the camp commanders themselves.

All internal administrative matters, in particular problems of food supply, clothing, and lodging of the inmates, were dealt with by the inspector on his own authority. For the administrative offices of the concentration camps the Inspectorate of Concentration Camps was the highest supervising authority.

To carry out these tasks of administration and supervision, the Inspector of Concentration Camps had at his disposal the Inspectorate with all the necessary technical organs, namely:

a. The Central Office (later office D I) which acted as agent for communication with the competent offices of the Reich Security Main Office. The personnel office was also a part of this office.

b. The Office for Medical Matters (later office D III), which supervised all health matters in the concentration camps. It received its professional instructions directly from the Reich physician SS.

c. The Administration Office (later office D IV), which was in charge of all problems of food supply, clothing, and lodging. In this respect it acted independently and was only bound by the general legal administrative instructions or by the administrative orders issued for *all* administrative offices of the Waffen SS by the ministerial authority (Economic and Administrative Main Office).

d. Up to the year 1939-40 there was a construction department in addition to these regular supervising organs, which carried out all construction measures taken by the inspector on his exclusive responsibility, including also the construction of all the concentration camps up to 1939-40.

e. A further office, the Office for Labor Allocation of Inmates

(office D II), was established in March 1942. This office got its orders direct from the chief of the Economic and Administrative Main Office and was competent and responsible for the execution of these orders.

After Eicke had been replaced as inspector in spring 1940, Obergruppenfuehrer Heissmeyer was appointed "Inspector General of Concentration Camps and of SS Death Head Units." After a short time he was succeeded, however, by Brigadefuehrer Gluecks as "Inspector of Concentration Camps", while the Inspectorate of Concentration Camps was simultaneously incorporated in the SS Operational Main Office.

With regard to the object of the indictment and to the result of the evidence it does not seem necessary to examine in detail all the *legal problems* connected with the concentration camps. To supplement the statement of the defendant Oswald Pohl in this trial only a few aspects are referred to.

When on 30 January 1933 Adolf Hitler was commissioned by the Reich President von Hindenburg to form a national government, Germany was confronted by a complete economic breakdown and was on the verge of a civil war. Only the decided concentration of all the forces of the nation could open up a way out of this difficult situation. The government of the Reich believed the elimination of enemies of the State from public life to be indispensable. In the few State concentration camps established before the outbreak of World War II, leading members of the Communist party, in particular, were imprisoned beside criminal elements and other public enemies (anti-social subjects, persons in preventive police detention, and others). People were sent to a concentration camp—if political reasons were decisive for this fact—as the result of an "order for protective custody" by the Secret State Police. The establishment of the protective custody as well as the concentration camps themselves had as a legal basis the "Decree of the Reich President for the Protection of the People and the State, dated 28 February 1933." This decree was a so-called emergency decree in the sense of article 48, paragraph 2 of the Weimar Reich Constitution. It was issued by the Reich President von Hindenburg. The so-called fundamental laws of the Reich Constitution were cancelled by this decree with the object of making it possible for the State authorities, in particular the Security Police, to make the necessary encroachments upon personal liberty, property, freedom of association and assembly, freedom of speech, etc.

There can be no doubt that by the decree of the Reich President for the Protection of the People and the State of 28 February 1933, the foundation of the so-called "Constitutional State"

was removed to a large extent. However, it is just as certain that the suppression of the fundamental laws of the constitution and the establishment of state concentration camps in themselves cannot be regarded as constituting any kind of punishable action. Germany as a sovereign state was at liberty to regulate her internal affairs. The measures taken by the Reich Government through the State Police can be condemned from the point of view of penal law all the less, as at that time Germany was doubtless in a difficult position, and as the conservation of a formal constitutional security in itself cannot be considered as having any absolute value, however desirable it might be.

The weaknesses of the so-called free society are too obvious to be overlooked for a long time. The experience of recent history has shown that the institutions of the constitutional state can only be considered as safe when, beside the allegiance of the state and its organs to the law, a minimum of social security and material justice is guaranteed by means of suitable measures.

It is also known that formerly, as well as nowadays, both outside and within the borders of the German Reich there existed and exist camps in which prisoners were detained and are being detained for their political convictions alone. In this connection attention is drawn to the law of 5 March 1946 for the liberation from National Socialism and Militarism, promulgated in the Laender of the U.S. Zone, which provides for an imposition of "labor camp" up to 10 years. This is a political measure which is carried into effect against persons solely on account of their former political convictions, regardless of an offense against any penal law.

In this connection I would also draw attention to the Directive No. 38 of the Control Council for Germany which I have submitted to the Court as an exhibit in the document book for the defendant Oswald Pohl. This directive deals among other subjects with the arrest and surveillance of "potentially dangerous Germans". According to I, [section] 1c, it is the object of this directive to establish a common policy for the whole of Germany concerning "the internment of Germans who, though not guilty of specific crimes are to be considered dangerous to Allied purposes and the control and surveillance of others considered potentially so dangerous". That this is a political measure, and that the reason for arrest lies in the political convictions of the person arrested, is clearly expressed by part I, [section] 5 [a], which is worded as follows:

"A distinction should be made between imprisonment of war criminals and similar offenders for criminal conduct and internment of potentially dangerous persons who may be confined

because their freedom would constitute a danger to the Allied cause.”

When judging the contents of this directive it is essential to take into consideration the date of its promulgation. It was issued on 12 October 1946, that is almost 1½ years after cessation of hostilities. Insofar as after the outbreak of the war nationals of the occupied countries were sent to concentration camps this was effected for reasons affecting the State and Security Police by the organs of the Reich Security Main Office. Neither the Economic and Administrative Main Office nor its chief Oswald Pohl was in any way connected with these measures.

4. *Incorporation of the Inspectorate of Concentration Camps into the Economic and Administrative Main Office*

Examined as witness, the defendant Pohl stated individually the reasons which led to the incorporation of the Inspectorate of Concentration Camps into the Economic and Administrative Main Office as office group [division] D, in March 1942. This incorporation was directly connected with the decree of the Fuehrer on the subject of designating a Plenipotentiary General for Labor Allocation, dated 21 March 1942. For the purpose of safeguarding the manpower requirements of the entire war economy, this decree charged Reichsstatthalter (Appointed Reich Governor) and Gauleiter Fritz Sauckel to direct the allocation of all available manpower in a uniform manner and in conformity with the requirements of the war economy. This decree of the Fuehrer was the result of a conference with Speer and Sauckel, also attended by the Reich Leader SS, at Fuehrer headquarters. Such a uniform directing of labor allocation could not disregard the manpower available in the concentration camps. The solution of this new economic task—namely that of directing the allocation for labor of the inmates of concentration camps—was the sole aim pursued by the incorporation of the Concentration Camps Inspectorate into the Economic and Administrative Main Office, and the sole aim that induced the Reich Leader SS Himmler to remove the Concentration Camps Inspectorate from the SS Operational Main Office, where it had been a part of the organization since 1940, and establish it as office group D in the Economic and Administrative Main Office. The defendant Oswald Pohl opposed the reorganization planned by Reich Leader SS Himmler and pointed out the fact that the Economic and Administrative Main Office, whose task it was to care for the economic requirements of almost one million men of the Waffen SS troops, was unsuitable, both by purpose and organization, to absorb and handle in a responsible manner so far reaching an administrative organization as the Concentration

Camps Inspectorate. The objections raised by the defendant Oswald Pohl did not serve to deter the Reich Leader from his decision to carry out the planned reorganization. However, there was agreement on the fact that this was only a special order, created by war conditions and limited in length of time, which was by no means destined to have the responsibility for the entire administration of concentration camps combined with it. This latter was to continue to be in the hands of the Inspector of Concentration Camps, Brigadefuehrer Gluecks. The activity of the defendant Pohl was to be confined to the handling, on ministerial level, of the allocation of labor of concentration camp inmates.

The incorporation of the Concentration Camps Inspectorate into the Economic and Administrative Main Office took place by the order of Reich Leader SS Himmler, dated 3 March 1942. The prosecution was unable to present the wording of this order. The statement made by the defendant Oswald Pohl, however, is proved as correct by another document submitted to the Court by the prosecution in its case in chief. This is the circular letter sent by the chief of the Security Police and SD to all offices of the Security Police and the SD, dated 30 May 1942, and presented by the prosecution as Document 1063-PS(f), Prosecution Exhibit 39. The wording of this letter is as follows:

“By order of the Reich Leader SS and chief of the German Police dated 3 March 1942, the agency of the Inspectorate of the Concentration Camps was removed from the SS Operational Main Office and incorporated into the SS WVHA as office group D (concentration camps). These measures are taken in order to serve the war-important direction of the labor, and as I expressly emphasize, have no influence on the competency of the Reich Security Main Office concerning the commitments and releases of inmates, leaves, and so on.”

In this connection I would again like to go briefly into the matter of the wording of the order itself, which has in the meantime been introduced by the prosecution in evidence. I will have to correct my statements made a few days ago that according to my opinion on the basis of the wording of that letter, there can be no doubt that only the responsibility of labor allocation was to be covered and comprised by that order. This also results very clearly from the contents and the wording of this letter and from the sense of it where nothing is said about submitting the concentration camps to the supervision of Oswald Pohl or that they were to be incorporated into the WVHA, but it is only pointed out that SS Brigadefuehrer Gluecks, together with his entire staff, was to be subordinated to the WVHA. It results clearly therefrom that the agency, Inspectorate of Concentration Camps, was to

lose nothing of its independence. The wording of the order is contained in Prosecution Exhibit 39.

This circular was signed by the chief of office IV (Secret State Police) of the Reich Security Main Office, SS Gruppenfuehrer Mueller and does not only disclose the purpose of the incorporation of the Concentration Camps Inspectorate into the Economic and Administrative Main Office as being solely that of uniformly directing manpower allocation of inmates, but also that the jurisdiction of the various offices of the Reich Security Main Office was not in any way affected by this reorganization. Even after the incorporation into the Economic and Administrative Main Office, all measures pertaining to matters of Security Police and State Police were directed and handled exclusively by the agencies of the Reich Security Main Office. This did not only apply to the question of confinement in or discharge from a concentration camp, but also to all other executive measures of the police or otherwise. The agencies of the Economic and Administrative Main Office did not dispose of any executive bodies, nor did they have authority for such measures.

The order of Reich Leader SS Himmler, dated 3 March 1942, went into effect 1 May 1942. The incorporation of the Inspectorate into the Economic and Administrative Main Office did not bring about the slightest change in the organization of the latter. Apart from the defendant Oswald Pohl, not a single member of the Economic and Administrative Main Office had *more* to do than before in connection with administrative matter pertaining to concentration camps. The defendant Pohl, in his capacity as chief of the Economic and Administrative Main Office, had no special aid on his staff to deal with concentration camp matters and did not keep any files. All questions of labor allocation were handled by the Concentration Camps Inspectorate in Oranienburg.

The main item of the defendant Oswald Pohl's new duties was the weekly conference with Inspector of Concentration Camps Gluecks, which mostly took place in the Economic and Administrative Main Office in Berlin, and only in exceptional cases in the Oranienburg Inspectorate office. The subject of this conference was the allocation of camp inmates to war industry. Gluecks presented to the defendant Pohl requests made by the armament industry, which were received either by the camp commanders or by the Inspectorate and had already been dealt with by the latter up to a stage where only decision was required. The defendant Pohl decided on these requests, in most cases in accordance with Gluecks' proposals, Gluecks generally being accompanied by the chief of office D II (labor allocation) Standartenfuehrer Maurer.

Gluecks and Maurer brought this data with them to Berlin into the Economic and Administrative Main Office for the weekly conference—which lasted on an average not more than one-half hour—and took it back again to Oranienburg after it had been dealt with. The requests for allocation of inmates to armament industry plants received directly by the defendant Pohl in the Economic and Administrative Main Office were first of all sent to Oranienburg for handling and then dealt with in the same manner as the others. All files remained in Oranienburg.

For details I refer to the contents of the affidavit made by Gerhard Maurer, dated 3 July 1947. [*Pohl 16, Pohl Ex. 15.*] After the incorporation of the Concentration Camps Inspectorate into the Economic and Administrative Main Office, this witness was chief of office D II and thus the specialist handling all questions of labor allocation pertaining to camp inmates. After giving an account of the weekly report of Gruppenfuehrer Gluecks to the defendant Oswald Pohl in the Economic and Administrative Main Office, the subject of the conference being the decision in answer to requests made by the war industry for manpower allocation, the witness, under section 4 of his affidavit, declares the following, and I quote:

“From office D II, Obergruppenfuehrer Pohl, received in certain periods of time, concerning the labor allocation of inmates, certain compilations from which the figures and places of allocation can be seen. Furthermore, in this connection from the compilations you could also see the number of inmates not used. The type of work in which they were also used could also be seen from those reports as well as their professions. However, the figures did not contain their nationality and they were not arranged according to nationality, nor was the reason seen which led to the issuance of this decree. These figures simply dealt with the necessity of labor allocation Obergruppenfuehrer Pohl received from Amtsgruppe D. Furthermore, certain reports concerning the man-hours in the economy, and also the wages which the inmates received during that time. He also received reports about their wages in the industry containing figures and personnel strength figures of the inmates used. There were also certain reports in there about the action on the production which had been achieved.”

The documents submitted by the prosecution prove the account of the defendant Pohl as correct. Almost all letters concerned with administrative matters of a general nature dealing with concentration camps were sent out directly in Oranienburg by office group D. The reports and notices of the commanders of the concentration camps were sent back to Oranienburg—unless

they dealt with matters of State police and had to be addressed to the various offices of the Reich Security Main Office. In this connection reference must be made to the fact that the Concentration Camps Inspectorate (office group D), had its own radio and news service, in which nothing was changed even after the incorporation with the Economic and Administrative Main Office.

The same applies to jurisdiction with regard to feeding, clothing, and quartering in the camps. The Inspectorate (administrative office D IV) continued to be sole supervisory authority on all these questions for the administrative agencies of the *concentration camps*. Only the camp commander was *responsible* for feeding, clothing, and quartering the inmates, and he carried out his duty with the aid of the chief administrator [Verwaltungsfuehrer] and the latter's aides, who were on the staff of the camp commander and subordinated to the camp commander in all matters.

The timely and satisfactory procurement of food and clothing for guard squads and inmates and the maintenance of quarters were therefore the responsibility of the camp commander and of his aides. He alone was responsible for the proper supply of commodities necessary to fulfill requirements of the camp inmates.

In this respect the function of the camp commanders was identical with that of commanders of independent detachments of troops. Their feeding schedules were bound to conform with directives and schedules determined by the Reich Ministry of Food and Agriculture. Subsequent to approval by the Regional Food Office, and the Food Office, respectively, the administrative chiefs of the camps purchased the required quantities on the free market.

The evidence has proved that, after the incorporation of the Concentration Camps Inspectorate into the Economic and Administrative Main Office, the responsibility of the defendant Oswald Pohl was confined to the uniform directing of labor allocation pertaining to camp inmates. Nevertheless, in his capacity as chief of the Economic and Administrative Main Office, the defendant Oswald Pohl endeavored to improve the working conditions of the inmates by appropriate interpretation and by spontaneous extension of the order he was under. Among other things he endeavored to remove from office those camp commanders who did not appear to have sufficient understanding for the humane aspect of labor allocation and to replace them by other suitable leaders. This attitude will serve to explain the motives underlying the proposals made by the defendant Pohl to Reich Leader SS Himmler, pertaining to the transfer of certain camp commanders.

The further endeavors of the defendant Pohl to go beyond the limits of centralized directing of labor allocation of camp inmates

and to gain influence in the working conditions themselves, extended to the following matters:

a. Feeding

1. Insuring the additional ration for heavy workers for 90 percent of all inmates irrespective of the type of work to which they were allocated. The camp commanders had to report each month that 90 percent of all inmates had received the additional ration for heavy workers. This illegal method was used in order to obtain a permanent improvement of food supply for all inmates.

2. Promotion of vegetable-growing on a very large scale and storage of these supplies for the winter.

3. Berry and mushroom collection drives by specially appointed squads.

4. Procurement of additional food on the free market, independent of ration limits. This includes the purchase of Biosyn-Mycel products and of Phrix-Yeast. In order to insure these highly nutritious products for the inmates, the defendant Pohl personally undertook trips to the manufacturing plants to convince himself of the usefulness of these foods.

b. Clothing

1. In collaboration with the defendant Georg Loerner, Pohl attempted to improve the clothing status of the camp inmates. In the winter of 1943-44 a competition to improve winter clothing by the use of synthetic materials was organized for this purpose, at the instigation of Oswald Pohl.

2. In 1943 and 1944, when plants throughout the Reich were being put out of action in over-increasing measure, the weaving section of the concentration camp Ravensbrueck was ordered to manufacture materials destined for the camp inmates.

3. Purchase of shoes from the shoe collection, with the approval of the "Gemeinschaft Schuhe" [Association Shoes] in favor of camp inmates under labor allocation.

4. Commitment of armament works to provide protective garments for camp inmates.

c. Miscellaneous

1. Issue of an order on the subject of privileges for camp inmates (the so-called premium order).

2. Breaking-up of punishment squads.

3. Prohibition of work at the double.

4. Abolition of roll call or limitation of it to 10 minutes per day at the utmost.

5. Prohibition of any type of work being done by camp inmates after their return to camp.

6. Establishment of a working day of 11 hours, which corre-

sponded to the working day of a German worker in armament industry during the second half of the war.

In connection herewith there is reason to investigate the basic facts of the contact which existed between office group C and the administration of concentration camps.

1. Up to the time when Obergruppenfuehrer Eicke left his post as Inspector of Concentration Camps, in the spring of 1940, all engineering work connected with these camps was carried out by a special engineering division of the Inspectorate, under the personal and direct management of Eicke. Before that time, there had already existed departments in the Economic and Administrative Main Office and in the chief office for household and engineering respectively, which had handled questions pertaining to engineering. Eicke, however, had not made any use of them in connection with engineering work in the concentration camps. This fact has been fully proved by evidence established in this trial.

For the lack of a suitable chief, the defendant Oswald Pohl himself directed office II (engineering) in the chief office for household and engineering, by placing the three main department chiefs personally and directly under his supervision, until, in the fall of 1941, he found a suitable office chief in the person of Kammeler, who later became SS Obergruppenfuehrer.

2. Only from this time on was there an organizational contact between office group C and agencies down to the lowest level (engineering management). The official engineering channels were: office group C (office V, central Engineering Inspectorate)—Engineering Inspectorate (of which there were five, namely: Reich North in Berlin, Reich West in Wiesbaden, Reich South in Munich, Reich East in Poznan and Silesia in Breslau)—central engineering management—engineering management.

There was an engineering management in every concentration camp too; a central engineering management was also located in several of these camps. In the Government General the highest engineering agency was the engineering group with the SS Economic Office [SS Wirtschaft] in Krakow. Its rank was equal to that of the Inspectorates in the Reich.

3. The office group C had delegated its competence to a considerable degree to the Engineering Inspectorates, for reasons of decentralization. Thus, all engineering projects to the amount of maximum Reichsmarks 100,000—and later up to Reichsmarks 180,000—could be approved individually by the Engineering Inspectorates, within their own jurisdiction. As a result, the official channels for construction managements generally ended with the Engineering Inspectorate.

However, engineering projects exceeding the value of RM 100,000 and RM 180,000 respectively, had to be submitted by the Engineering Inspectorate to the office group C for approval, and Kammler had reserved unto himself personally the approval of such projects. But it did also happen that engineering projects exceeding these limits did not reach the office group C and were not submitted to it for approval. This happened in cases in which the work involved extended over two seasons of the year and the engineering project was divided into two engineering portions, each of which did not exceed the amount of RM 100,000 and RM 180,000 respectively. This procedure was even *obligatory* if the yearly quota (wood, iron, concrete) was insufficient to cover the entire engineering projects and had to be apportioned to 2 years or 2 seasons of the year.

4. The evidence has not furnished any concrete proof of the fact that the gas chamber facilities in Auschwitz were submitted through and approved by these official engineering channels. In any case, the prosecution was unable to submit evidence which might justify such an assumption. It must, much rather, be assumed that this engineering project was carried out by the local engineering management upon Himmler's order, which was given directly to the commander of the Auschwitz camp. For reasons of secrecy alone this appeared expedient, because otherwise, if this engineering project had been channeled via the central engineering management and the Engineering Inspectorate, too large a circle of people would have obtained knowledge of it.

This assumption is confirmed by the testimony which the Auschwitz commander, Rudolf Hoess made before the International Military Tribunal and which is submitted by me, in excerpt as Document 3868-PS, Prosecution Exhibit 51. This testimony discloses, among other facts, that Himmler had even forbidden Hoess to discuss the contents of the order received by him with his direct superior, the Inspector of Concentration Camps, Gruppenfuhrer Gluecks. Under these circumstances it must be assumed that Hoess was also authorized directly to approve and carry out, within his own jurisdiction, all engineering projects subject to any particular obligation to secrecy and irrespective of any cost limit.

Now I shall come to number 5, dealing with labor allocation of concentration camp prisoners.

5. *Labor Allocation of Concentration Camp Prisoners*

I

In his capacity of chief of the Economic and Administrative Main Office the defendant Oswald Pohl received an order from

the Reich Leader SS to take up, within the scope of the competent ministry, the unified and centralized direction of the allocation of concentration camp prisoners. Defendant Pohl's function, substantially, was to decide on demands made by enterprises within the war economy for the labor allocation of prisoners. In addition, he was required to assume the unified direction of the allocation of prisoners in enterprises managed by the office group W of the Economic and Administrative Main Office. With regard to the details of this procedure I refer to the testimony of the defendants Pohl and Sommer and to the contents of Gerhard Maurer's affidavit, dated 3 July 1947.

The order given to Oswald Pohl for the unified direction of the labor allocation of prisoners was closely connected, in time and matter, with the development of the war and, dependent on it, was the nomination of a Plenipotentiary General in charge of labor supply, taking effect by an ordinance of the Fuehrer, dated 21 March 1942. I have submitted this ordinance to the Court as an exhibit and also the directives for its execution and am referring to it in detail.

Though in the Fuehrer's ordinance regarding a Plenipotentiary General for Labor Allocation, dated 21 March 1942, the latter received plenary powers to take all measures necessary "to guarantee a unified direction of allocation, adequate to the demands of war economics of all available labor supplies, including foreign workers recruited and prisoners of war, as well as the mobilization of all labor forces previously not utilized," collaboration between the offices of the Plenipotentiary General and the Economic and Administrative Main Office did not develop. The German labor forces and foreign workers recruited by the agents of the Plenipotentiary General were immediately directed to war economy and for the greater part quartered in camps, established and administered by war economy plants themselves and supervised by the German Labor Front (DAF). The freedom of the workers was not subjected to any other limitations except those originating from the labor contract.

II

The prisoners of concentration camps were directed to these camps by orders of the Reich Security Main Office, the administration of the Plenipotentiary General for Labor Allocation or any other labor administration not being connected with it or in a position of influencing, to any notable degree, the decisions of the Economic and Administrative Main Office. As far as this concerned prisoners detained for political offenses, their transfer was effected by means of an order for protective custody issued by the office

IV of the Reich Security Main Office. The transfer of criminal prisoners (professional criminals), captives in protective custody, and others), of individuals detained in preventive custody by the police and similar categories was done according to a regulation of the office V of the Reich Security Main Office (Reich Criminal Police Bureau). The agents of the Security Police were subject to police directives without being able to, or obliged to, consider questions connected with the allocation of labor and the procurement of labor forces. The Economic and Administrative Main Office, as unequivocally proved by the evidence, had nothing to do with these police regulations and was in no connection whatever with them. It could neither transfer a person to a concentration camp nor was it authorized to order the release of a prisoner. The Economic and Administrative Main Office, in attaining the release of a prisoner, was under the obligation, uniformly with every other office of the Reich or of the Party, to make a demand to the Reich Security Main Office and whether this demand was granted or refused, depended exclusively on the resolution of *the police*.

III

The records of the number of prisoners employed in the different plants, furnished to the defendant Oswald Pohl by the office group D were arranged according to *professional groups*. This distinction alone was of importance for the uniform direction of labor allocation. On the other hand, the nationality of the prisoner and the reason for his being taken into protective custody or preventive police detention did not become evident from these records and reports. These questions were of no importance for the execution of the order given to Pohl and pertained exclusively to the competency of the Reich Security Main Office. Prisoners of concentration camps whose allocation was to be uniformly directed by Pohl within the scope of the ministry to which he was attached were no less subject to compulsory work than the inmates of state prisons.

There is no doubt that prisoners serving sentence passed by a court were *compelled to work* and are still being compelled. In this way they could also be utilized in economy and war economy. This becomes evident beyond any doubt from the Code of Penal Administration in the version of the announcement, dated 22 July 1940 (official special publication of German Justice No. 21), submitted as evidence by the defense.

Under figure [section] 67, referring to the fact that work is the basis of a regular and effective execution of punishment, it is expressly decreed that "every prisoner is obliged to work

and to perform what can be accomplished with industry and care." Under figure [section] 81 it is stipulated that the proceeds from the work allotted appertain to the Reich and "to the greatest possible extent should contribute to the payment of costs incurred by the Reich for the infliction of the punishment." The second part of the Code of Penal Administration contains regulations with regard to working time, fixed at a minimum of 9-10 hours a day.

The Code of Penal Administration does not only deal with the compulsory work of persons sentenced to imprisonment by a court but also contains regulations for the "execution of measures for security and the reformation of character in connection with deprivation of freedom," as provided for in sections 42 and following, of the Reich Penal Code. Under figure [section] 213 it is decreed that "the daily working time of a prisoner in protective custody in general should not be less than 10 hours."

Finally there are in the Code of Penal Administration also provisions with regard to compulsory work when confined to a workhouse or institution (fig. [Sec.] 216). Similar conclusions have to be drawn from previously existing regulations, the legal validity of which has never been doubted and can never be questioned. In this connection supplementary reference has to be made that already before the war, *compulsory labor* also for *prisoners in custody on remand* had been introduced by a provision of the Reich Ministry of Justice. With regard to details, I refer to the ordinances and regulations, submitted by the defense, especially the general order of the Reich Ministry of Justice, dated 7 June 1938 and the circular (regulation) of the Reich Ministry of Justice, dated 10 May 1939.

Serious objections cannot be raised against proper application of these regulations, as far as I know existing also in the Code of Penal Administration of other countries, pertaining to inmates of concentration camps. Similar misgivings are all the less warranted, as many thousands of inmates were in concentration camps who, as criminal elements, had to be imprisoned by the police for reasons of public safety, at least for the duration of the war. The application of the regulations embodied in the Code of Penal Administration to concentration camps, appears all the more obvious, as also external conditions are absolutely adequate. Compulsory labor in the concentration camps seems all the more understandable, as in opposition to penal prisoners, no compensation was claimed by the administration of the camps for the costs of accommodation, guarding, food, clothing, and so on. In the German criminal procedure provision is made that the convicted persons should be made to pay not only for the costs of the trial

but also for the expenses of the execution of sentence. On the other hand, special emphasis was laid on the exemption from payment of these costs in case of prisoners who were confined to a concentration camp on the basis of an order for protective custody, or who were arrested by the police for preventive detention. For this reason the Reich Minister of Finance also demanded that the administration of the concentration camps paid, at least in part, for the expenses incurred by these camps from the proceeds of the prisoners' work.

IV

As almost every law, the statute, dated 8 August 1945, of the International Military Tribunal and Control Council Law No. 10 contains "normative (standard) elements of the facts of the case" [normative Tatbestaende], these being of such a nature that the establishment of the punishable facts of the case, in each separate event, can be arrived at only by means of a decision based on the personal valuation of the judge. In Article II of Control Council Law No. 10, for instance, mention is made of "enslavement, forcible displacement and other inhuman wrongs perpetrated on the civilian population", without specifying in detail the elements of facts of the case requisite for the justified assumption of a war crime or a crime against humanity.

No special proof is necessary for answering the question under what supposition the terms "enslavement", "slave labor" are legitimate, comprising a judicial decision based on personal valuation and that this cannot be established without due regard to actual practice not only in Germany, but also in other countries. In this connection the fact cannot be overlooked that, after Germany's military collapse, millions of German prisoners of war were not only forced to work in mines and elsewhere under different and extremely hard conditions, but that many thousands of Germans were moved to the Soviet Union and that this occurred as the result of a joint resolution by the government chiefs of Great Britain, the United States and the U.S.S.R., taken at the conference of Yalta in February 1945 and laid down in a secret report. Under paragraph 2 * of this secret report provision is made for "German reparations to be exacted in triple form as follows:

"a. Within 2 years after the capitulation of Germany or following the cessation of organized resistance, total dismantling of national property within and outside Germany * * *.

* Protocol of the Proceedings of the Crimea Conference, published by the Department of State, 29 March 1947, Section V.

"b. Annual deliveries of goods from current production for a period of time to be settled after the termination of war.

"c. Allocation of German labor."

In the interpretation of Control Council Law No. 10 and in judging the defendant Oswald Pohl's attitude, the Court will have to take into account this practice, actually carried out, that German labor is used as payment for reparations.

In the interpretation of the regulations pertaining to Control Council Law No. 10 and of the statute for the International Military Tribunal further consideration will have to be given to Article X of Ordinance No. 7 of the Military Government for Germany (US). In it, it is laid down that admissions of the International Military Tribunal concerning Case No. 1 (Goering, *et al.*) can be taken as evidence of facts only, failing new and essential proof to the contrary. This regulation, however, will have to be valid, in its proper application, not only with regard to the establishment of *facts* but also when *interpreting the law* itself. The contents of the secret report signed in February 1945 at the Conference of Yalta by the three great powers had not been made public when the International Military Tribunal pronounced the judgment and, consequently, could be applied to the interpretation of the statute by this Tribunal.

PRESIDING JUDGE TOMS: Has the Yalta agreement that you refer to been introduced in evidence here, this secret agreement?

DR. SEIDL: Your Honor, the text of this secret additional report of the Yalta Conference has been published in all papers inside and outside Germany some months ago. This happened in connection with the accusations raised against the Soviet Union that German labor had been forcibly deported. From the point of view of the fact that this report had been published, I did not introduce it as evidence into this trial; but if the Court thinks this should be done and thinks that the text of the record should be in evidence, I should be grateful for the opportunity of making up for this omission. I have the text of this report here at my disposal.

PRESIDING JUDGE TOMS: Never mind introducing anything further. Just go ahead.

[DR. SEIDL continues.]

V

The hearing of evidence has proved that the order, dated 3 March 1942, by the Reich Leader SS, charging the defendant Oswald Pohl with the unified direction of the prisoners' labor allocation was closely connected with the development of the war. After the collapse of the German offensive in Russia in the winter of 1941-42, which had led the German troops to the gates of

Moscow, it had become evident that Germany would have to count on a long war and that in this war the entire existence of the nation was at stake. Germany was opposed by a whole world of enemies backed by an enormous war-potential and the government of the Reich would have seriously neglected their duty in omitting to take all measures necessary for averting this danger. One of these measures was the mobilization of all the labor available.

PRESIDING JUDGE TOMS: Including slaves?

DR. SEIDL: Including the mobilization of all labor of which they were available in the German territory.

PRESIDING JUDGE TOMS: No matter where you got it, or how you got it?

DR. SEIDL: If they were in concentration camps, then they were subject for the reasons I have quoted, for compulsory labor allocation.

PRESIDING JUDGE TOMS: No matter how they got there?

DR. SEIDL: If they had come to a concentration camp for reasons of the Gestapo, for instance, because they constituted a danger for the occupation forces in occupied territory, then in my opinion the administration was justified in having these inmates included in the labor process.

PRESIDING JUDGE TOMS: Your whole argument, Dr. Seidl, is a justification then of the enslavement of Jews and enforced labor of Jews in concentration camps. You are justifying it? You think it was right?

DR. SEIDL: If your Honor, please, I have to defend the defendant Pohl.

PRESIDING JUDGE TOMS: You are making an argument, and I want to know what your position is in making the argument. Do you justify it, and claim it was right?

DR. SEIDL: I claim that it has been justified if the inmates for reasons of the Security Police had been committed to concentration camps. Whether in certain individual cases these requisites had been fulfilled or not, the defendant Pohl was not in a position to investigate; he had to rely on the fact that those inmates who were in concentration camps had been sent there for good reasons by the Security Police.

PRESIDING JUDGE TOMS: That is not the point that you were discussing. You are saying that as long as the Jews were in concentration camps it was legitimate and lawful to force them to work, no matter how they got there. Go ahead, I don't mean to distract you, or to interrupt you. Go ahead, with your argument. I am sorry.

DR. SEIDL: Let us investigate the legal deductions resulting from this position of the German Wehrmacht and German war

economy—above all in view of the supposition of a State emergency. The question of a state of emergency and the special case of self-defense, was regulated in nearly all criminal laws, applicable only to individual circumstances. The *individual*, under certain conditions, may count on immunity from punishment, if he “acted forced by his own personal exigency or that of another.” It has, however, been acknowledged in jurisdiction and judicial literature that a *collective body*, the “state” may also find itself in a state of exigency and that interventions intended to avert this exigency and actually averting it, may become exempt from punishment.

1. First, the question arose whether the conception of the individual’s self-defense could be amplified to that of a state emergency in the sense of legal defense in favor of the state and the community of people. This question, on the whole, has been answered in the affirmative.

2. The same that applies to self-defense also applies to a state of emergency, such as judicially expressed, for instance, in Article 54 of the German Penal Code and also classified in nearly all modern systems of criminal procedure. Also these regulations are, first of all, designed for individual circumstances. But, from this conception, literature and legal administration arrive at the basic acceptance of a *state emergency* with adequate effect. In view of the version in which the conception of emergency is generally expressed in penal codes, the justified extension of these regulations to the state is, after all, only a transmission of fundamental ideas.

If the idea of an emergency is extended to the *state* and if an individual is given power to intervene for the purpose of eliminating such an emergency, a valuation of *objective* assets and values is involved, as it also arises in a general state of emergency and in the provisions with regard to an individual state of emergency. This must necessarily lead to the result that for the individual, if conceding such actions to him, the guilt not only is removed, but that his action has become “justified”. In other words, the so-called state emergency is a *reason for exculpation* even if admitted only in the corresponding application to the current judicial conception of an emergency state.

But what is meant by “transmission” of *fundamental ideas* to cases of *state emergency*? Whether a state emergency is due to anybody’s guilt or not, whether, for instance, the last war has been a “war of aggression” is evidently of no import here. Merely the existence of an emergency is decisive. The limitations of individual interests are, in a general way, replaced by the vital interests of the community and the state.

Summing up, we can therefore define the so-called state emergency as an emergency not to be obviated in any other way with regard to vital interests of the state and the community. Admitting an action within its implications, not only calls for acceptance of an exculpatory cause but for the establishment of a genuine cause for justification.

Which are the consequences from this legal state of affairs for the case of the defendant Oswald Pohl?

1. In March 1942 and in the following years the war situation developed in such a way that it involved a "real," i.e., an *immediate pressing danger to the vital interests of the state as a power conducting the war*. An increase in war production could only be achieved by an increased employment of new labor, in view of the fact that the Wehrmacht had raised its troop requirements.

2. The conception of a *state emergency* presupposes that the action which is the subject of the indictments aimed at the *removal of the danger*. By this is meant the objective purpose of the act and not the subjective purpose of the person acting. It remains to be discussed whether the uniform direction of the labor allocation of prisoners was a suitable means for averting the danger threatening the state. In any case, this question must be answered in the affirmative without further proof being required.

3. In the end it may not have been possible to remove the state emergency "by another method." According to the result of the hearing of evidence there can be no doubt that no other way existed.

In view of these facts and their legal consequences the behavior of the defendant Oswald Pohl appears to be justified even if the Court, contrary to my conviction, should come to the conclusion that the employment of concentration camp prisoners for war economy constitutes a state of facts punishable by law.

This cause for preclusion of injustice would also be applicable if the Court should regard the *working conditions* (working hours) as constituting a state of facts punishable by law. An exception would then only exist if in a single concrete case the defendant Pohl were to be held responsible personally. The hearing of evidence has however offered no proof of such an exception. For the rest I refer to the limits of the criminal responsibility of the defendant Pohl in his capacity as chief of the Economic Administrative Main Office, in my exposition at the conclusion of this evaluation of evidence.

VI

Besides the *general* state of emergency already mentioned, a *special state of war emergency* is recognized in the literature of

international law. According to this, "actions are also permitted which, in self-defense and in a state of emergency, are contrary to the articles of war and which in themselves would thus also infringe on international law." According to international law, however, self-defense and emergency are different to "military war necessity" (war reason), which alone still cannot justify the violation of the articles of war. *Emergency* and *war necessity* are, however, *different conceptions*. According to general principles the emergency, in which the existence and power of development (self-preservation and self-development) of the threatened state were at stake, justified the violation of every rule of international law, consequently also the legal maxims of the articles of war, a fact recognized by the internal law of every cultural state. When applying the terms self-defense and emergency, recognized by penal law and international law, the illegality of the violations committed are precluded if the state found itself in a situation which could not be relieved by any other means and which jeopardized its existence.

The German Reich undoubtedly found itself in such a position after the collapse of the winter offensive in Russia 1941-1942 and after the defeat at El Alamein. The material superiority of Germany's enemy made itself ever more strongly felt as war went on and there was no longer any question, that with the acceptance of unconditional surrender demanded, the foundations of the existence of the whole nations were also threatened at the same time.

VII

In this connection also a few remarks regarding the employment of *prisoners of war* seem to be called for. The pertinent regulations are to be found in Article 6 of the Hague Convention of Land Warfare dated 18 October 1907 (Appendix to IV Convention dealing with the laws and customs of land warfare), and in Article 31 of the Geneva Convention dealing with the treatment of prisoners of war dated 27 July 1929. In Article 6 of the Hague Convention regarding Land Warfare dated 18 October 1907 regarding the question of employing prisoners of war, it states among other things: "The work done by prisoners of war must in no way * * * be connected with war enterprises."

Article 31 of the Geneva Convention dated 27 July 1929 reads as follows:

"Work to be performed by prisoners of war must *not* be *directly* connected with war operations. It is especially prohibited to use prisoners for manufacturing and transporting

arms or munitions of any kind or for transporting material intended for the combatant units.”

1. The Geneva Convention of the year 1929 regarding prisoners of war, which has been ratified by Germany, is to supplement and replace the regulations of the Hague Convention regarding Land Warfare of 1907 or 1899.

In relation to such states, who did not ratify the Geneva Convention, the Hague Convention of Land Warfare of 1907 or 1899 is applicable if these states are bound by one of the two versions.

The Geneva Convention of 1929, which does not contain any so-called clause providing for the participation of all the powers (Allbeteiligungsklausel), was valid in the Second World War in the relationship between Germany and her war opponents at that time, but was not valid formally as far as the Soviet Union was concerned, by whom it was not ratified. The Hague Convention regarding Land Warfare was neither formally nor even generally binding for the Soviet Union in the Second World War. This warfare regulation contains a clause providing for the participation of all the powers and in the Second World War the following belligerent states were not bound by it: Bulgaria, Greece, Italy, and Yugoslavia. It is doubtful whether the Hague Convention regarding land warfare of 1899 was formally valid during the Second World War.

This question is however of no practical importance, because neither in the First nor in the Second World War did any of the belligerent powers refer to the lack of binding force of the Hague Convention regarding Land Warfare.

It must therefore be granted that the regulations contained in the second Hague Convention of Land Warfare of 1907 are valid in international law by force of custom. Therefore this appears justified too, because—as it is commonly acknowledged—the Hague Convention regarding Land Warfare *codified* mainly the prescriptive law valid under international law even before then. Similar statements may also be made with reference to the Geneva Convention of 1929 concerning prisoners of war. In the main it gives an accurate definition of the regulations contained in the Hague Convention of Land Warfare regarding prisoners of war. Furthermore, it contains a few extensions as well as *restrictions* of this warfare regulation. A striking example for the restrictions is constituted by the insertion of the word “*direct*” in front of the word “*relation*”. It must be assumed that here it is likewise only a case of the codification of the prescriptive international law; this law resulted from the experiences gained during the time after 1907, especially from the growth of the idea of total war and of economic war.

In this connection it appears worthy of note that already before the conclusion of the Geneva Convention of 1929 concerning prisoners of war the demand had not infrequently been made that *direct relationship* to the war should serve as a prerequisite for prohibiting the employment of prisoners of war. Thus for example in its "Manual *des Lois de la Guerre sur terre*" which was composed in 1880 and which has become a classic; the "*Institute de Droit International*" already provided the following regulations for the employment of prisoners of war, viz:

"They may be employed on public utilities which have no *direct* relation to operations carried on in the theater of war".

If this is so, then on the strength of the *prescriptive law*, article 31 of the Geneva Convention concerning prisoners of war, also applied to Soviet Russia during the Second World War.

The literature of international law including the official War Manual as well as the *British Manual of Military Law* 1929, 1936 edition, or the *US Basic Field Manual* (FM 27-10) 1940 edition in the same way as the Geneva Commission Minutes 1929, do not serve as any useful guide for the interpretation of Article 31 of the Geneva Convention concerning prisoners of war.

However, the authoritative American work by *W. Winthrop: Military Law and Precedents*, 2d Ed. Government Printing Office, Washington, 1920 (*War Department Document No. 1001, Office of The Adjutant General*), on page 792 contains the following noteworthy statements:

"Also they (the prisoners of war) may not be compelled to participate in military operations or to *perform labor or do service of a military character.*"

The meaning of the regulation in question must be elucidated from the text itself.

2. Article 31 of the Geneva Convention of 1929 regarding prisoners of war prohibits two ways in which prisoners of war may be employed, namely:

a. To employ them for transporting arms and munitions, as well as material which is intended for the combat units. The demand that these articles must be intended for combat units refers to all articles described herewith.

Apart from arms and munitions it covers in particular articles of equipment, fuel, telephone installations, cars, motorcycles, wagons, horses, beds, blankets, perhaps also food supplies although the latter is doubtful.

The trend of thought appears to be that prisoners of war are not to be asked to appear at the front and there to supply the combat units in the front line with material which may directly or indirectly enable or facilitate their fight against the people of

the prisoners of war. It is important that the transport must be intended for the *combat* units. Accordingly transport for the occupying forces or the home army is not forbidden.

b. Moreover the employment of prisoners of war for *work* which is *directly* connected with war operations is prohibited.

From this formulation it follows immediately that not every employment of prisoners of war in war or armament industry is forbidden.

By war operations are meant here, operations performed by the combat units but not the activity of occupation authorities or forces.

As the only example for this type of forbidden work, the manufacture of arms and ammunition of every kind, including those for land, air and sea warfare, is mentioned.

Article 23 prohibits the *manufacture and transportation* of arms and ammunition, in the case of other material merely the *transportation*. Even from this statement one is already inclined to conclude that the manufacture of *means* of transport, such as cars, railway trucks and aircraft, ships and so forth, cannot be listed under the heading *labor* which, according to Article 31, is forbidden, even if these articles are going directly to the combat units.

PRESIDING JUDGE TOMS: But you would not say that it was true as to U-boats and tanks, would you?

DR. SEIDL: Your Honor if this applies to U-boats and tanks this question cannot be answered in this general way. If then spare parts or parts of U-boats are being manufactured, I am then inclined to accept this view, but I should take the view that the manufacturing of U-boats, the assembly of U-boats, are not covered by the Hague Convention of 1929.

PRESIDING JUDGE TOMS: All right.

DR. SEIDL: According to general opinion, the digging of trenches and fortifications at the front is listed as forbidden occupation. One must not include here the building of barracks for soldiers, field hospitals, air-raid shelters and so forth.

If *munitions* is the only example which is mentioned under forbidden activities in connection with production, then this example indicates the meaning which the convention attaches to labor in *direct* connection with war operations.

War operations means combat. Prisoners of war are not required to manufacture the means by which the soldier at the front places his people, "*hors de combat*." Chief examples apart from arms and ammunition are such things as flame throwers, smoke-screening apparatus and so on. This does not, however, include the manufacture of articles which make it easier for the soldier to

carry on the fight or which are necessary for his existence, such as foodstuffs, articles of clothing, binoculars, telephone apparatus, flashlights, maps, and other such things.

The word "direct" is closely connected to the word "exclusive". At any rate, under this heading such products are to be understood which are specially intended for carrying out war operations, not however, those which, apart from this, serve other purposes such as wires, railway sleepers, rockets, gas masks and again binoculars, flashlights, etc.

Furthermore, only a product which *directly* serves the operation of war can be used in combat, *as such*. The manufacture of semi-finished goods or of articles which can be used for assembling war materials such as for example screws, armored plates, wires, nails, does not fall under the category of labor prohibited under Article 31. On the other hand, finished products such as U-boat compression tanks and torpedo firing tubes, etc., which only have to be mounted, belong to this category.

One is led to this interpretation all the more, if one takes into account the *generally recognized* legal principle "*in dubio pro reo*", according to which every incriminating provision is to be construed in favor of the defendant.

A strict interpretation of article 31 also seems appropriate, because—in times of total warfare—all employment of PW's may in the end inevitably be regarded as prohibited by Article 31. No matter whether a PW is employed for road repairs, in stone quarries, in horticulture, in factories making civilian clothes and the like, it will always be in the interest of the war, and even if only for the reason that by his activity another worker is made available for active service in the army.

The hearing of evidence did not prove that the defendant Oswald Pohl was responsible for employing PW's under conditions, which represented a violation of the regulations of the Hague Convention relating to Land Warfare and of the Geneva Convention referred to. Anyhow it could not be proved that the defendant Pohl had issued an order to this effect. In this connection I should like to refer to the affidavit given by Gerhard Maurer, from which it becomes evident that records and reports concerning the employment of prisoners were submitted to the defendant Pohl, which simply showed the professional groups and the type of profession, but did not admit of any conclusion being drawn regarding nationality, the reason for the protective custody and other concomitant circumstances.

In judging these facts it has to be borne in mind that, in principle, the administration of PW camps rested with the OKW (Supreme Command of the Armed Forces) and that the Eco-

conomic and Administrative Main Office had nothing to do with it. If, in spite of it, there were deviations from this rule in exceptional cases, it was not done in agreement with the Economic and Administrative Main Office. The treatment of questions arising therefrom was exclusively an affair of the OKW and the chief of the Security Police and Security Service.

If, in spite of this, the Tribunal should find the responsibility of the defendant Oswald Pohl in connection with the employment of PW's as being established under conditions which would at the same time represent a violation of the regulations of the Hague Convention regarding Land Warfare of 1907 and the Geneva Convention of 1929, then the illegality, in view of the war emergency already mentioned, would be inadmissible.

VIII

As is shown by the hearing of the evidence no serious objections can be raised against the assumption that the prisoners are obliged to work. In view of the special conditions due to the war, the illegality of the attitude of the defendant Pohl would be inadmissible, even if such an obligation for work had not existed (national emergency, war emergency).

Whatever the position may be, the defendant himself at any rate was *convinced* of the legality of this employment and never doubted its legality.

At the beginning of my assessment of evidence, I already proved in detail that a conviction for committing war crimes and crimes against humanity within the sense of Article II, paragraph 1 (b) and (c) of Control Council Law No. 10, is *only* possible if *intentional* violation can be proved. Whether such an intention existed has also to be judged by *German Law* as I have already mentioned.

According to section 59, paragraph 1 of the Reich Penal Code, the German Law stipulates that a crime can only be classified as intentional, if it is committed with *full knowledge of all circumstances* in connection with the acts punishable under the law. The erroneous assumption of an actual justification to act at the same time precludes the intention to commit a crime; this is in accordance with the administration of justice which was established long *before* the National Socialist era, and which was practiced by the German Supreme Court in a case where this assumption is based upon an *error outside penal law*. "An error outside penal law may be classified as equivalent to a factual error; it eliminates all intention."

It is a fact that the assumption of the legality of the allocation for labor of concentration camp inmates represents an *assumption*

outside penal law, and that therefore an error in this respect constitutes an error outside penal law. Such an assumption is to be dealt with under administrative law, but in any case not under penal law.

In judging this question it would be completely *wrong* to refer to the provisions in Article II, paragraph 4(b) of Control Council Law No. 10. In accordance with it, the defendant is not exempted from responsibility if he, "acted by order of his government or one of his superiors." This is not the point in investigating the present problem. It is not an "order" which is to eliminate the intention, but an "*error*" of a certain kind. This regulation of Control Council Law No. 10 mentioned above, therefore does not apply to the present case and cannot be applied here.

Besides I refer to my explanations later on in regard to the exculpatory cause: "Actions by order."

IX

During the hearing of evidence the, "Special Staff Kammler" [Sonderstab Kammler] has been repeatedly dealt with. It appears necessary to make a few remarks in reference to the position of this special staff and its construction projects within the scheme for the labor allocation of prisoners.

As from the beginning of 1943 Reich Leader SS Himmler concerned himself more and more with the armament industry. The reason for this was evidently not an official commission by the Fuehrer, but his realization that by increasing the war potential the prerequisites for a victorious termination of the war had first to be established. In this respect his close personal relations to Armament Minister Speer were a great help to him; later on he worked closely together with him.

The Special Staff Kammler originated from this personal relationship between Reich Leader SS Himmler and Armament Minister Speer.

SS Obergruppenfuehrer Kammler was commissioned with special tasks in connection with war economy when, after the loss of the 6th Army at Stalingrad and the subsequent military development it became apparent that an increase in production could no longer be expected unless certain production programs were placed under the control of one person or at least a small staff.

When Kammler participated in the Jaeger * program in spring 1943 he performed the first task which was assigned to him. In agreement with Armament Minister Speer, he was to establish the prerequisites for an increase in the production of the armament industries. Right from the beginning, this task was more

* Case of United States vs. Erhard Milch, vol. II, pp. 524-595.

in line with a special commission and had no connection whatsoever with office group [Amtsgruppe] C of the Economic and Administrative Main Office.

This "special task" grew from month to month. When more and more of the armament plants were destroyed through the daily increasing air attacks, the most important of these plants were to be transferred underground as speedily as possible. After Peene-muende—the seat of the V-weapon development center—had been destroyed, and the development of the V-weapons came to a standstill, Kammler was again commissioned to establish the necessary prerequisites in respect of material and organization, for the continuation of this work.

The result of this increase in the scope of the tasks was that Obergruppenfuhrer Kammler as Chief of office group C came to the fore less frequently—in this connection the cancellation of certain construction projects, caused by the conditions of war, may have played a part—and that finally in the fall of 1943 he was subordinated directly and personally to Reich Leader SS Himmler himself as, "Chief of the Special Staff (Kammler)." He transferred his office to an administrative building away from the WVHA and left at the WVHA itself only SS Standartenfuhrer Prof. Schleiff as his permanent deputy. All the available personnel of office group C left the WVHA and were transferred to the "Special Staff". This personnel of the Special Staff Kammler was supplemented by members detailed by the Luftwaffe, the army and the navy.

The special staff received its orders from:

1. Reich Air Ministry (Jaeger program).
2. Armament Ministry (reestablishment of armament industry under and above ground).
3. Supreme Command of Armed Forces (V-weapons).

In accomplishing these tasks, Kammler and his special staff availed themselves of an organization of its own, which had no connection with the Economic and Administrative Main Office. Distributed all over the Reich there were about five S Inspectorates (special inspectorates), which were the supreme authorities for the so-called Operational Staffs (Fuehrungsstaebel). In this way "Special Staff Kammler" developed into an organization, distributed all over the Reich and entirely independent from the Economic and Administrative Main Office. Therefore the responsibility for all the work of the special staff rested exclusively with its chief, Obergruppenfuhrer Kammler, and the supreme Reich authorities to which he was directly subordinated (Reich Air Ministry, the Armament Ministry, and the Supreme Command of the Armed Forces).

Therefore the activities (construction projects) of this special staff cannot be regarded as being those of the Economic and Administrative Main Office (office group C). The construction projects included among others:

1. the reestablishment of about 15 large plants above ground.
2. the reestablishment of about 10 large subterranean plants.
3. Mittelwerk (Dora) Nordhausen.
4. Laura Ohrdruf (Fuehrer headquarters).

The requisitioning of prisoners as workers for these construction projects was effected by the special staff in the same way as by the big armament firms, i.e., by an application from the competent ministries to the Inspectorate of Concentration Camps at Oranienburg. The total number of prisoners employed by "Special Staff Kammler" amounted to approximately 170,000.

Direct responsibility for the working conditions in connection with these construction projects rests neither with the Economic and Administrative Main Office nor with its chief, Oswald Pohl. On the contrary, the limits of responsibility are the same as in the case of any other employment of prisoners in the armament industry arranged for and sanctioned by the office group D (office D II).

* * * * *

6. Spoliation and seizure of property in the occupied territories is what is dealt with now. I would appreciate it if the Tribunal would take judicial notice of what is contained here, and I shall now turn to the next number which is No. 7 on page 74 of the English, and that is the *medical experiments*. I have examined this question in all details and due to the time that is at my disposal, however, I would appreciate it if the Tribunal would also take judicial notice of the medical experiments. These medical experiments are on page 74 of my final plea in the English.

Now, as far as No. 8 is concerned, as far as the operations 13 f and 14, euthanasia, are concerned, and which is on page 95, I believe I shall skip that too, and I shall turn to No. 9 of the draft of my final plea, which deals with the so-called "Action Reinhardt." The deliberations start on page 97 and I shall read those now.

9. "Action Reinhardt"

During the hearing of the evidence the prosecution has submitted documents from the document books 18 and 19 with the intention of showing that the Economic and Administrative Main Office and its chief, Obergruppenfuehrer Oswald Pohl, participated in the measures which were comprised under the collective name, "Final Solution of the Jewish Problem," and apparently aimed at the extermination of the Jews in Europe. The prosecution itself apparently does not wish to assert that the Economic

and Administrative Main Office and its chief participated directly in carrying out these measures. At all events, the documents submitted by the prosecution do not permit of such a conclusion. Considering that the Economic and Administrative Main Office, itself, did not possess any executive instruments such a direct participation, would have been impossible. For the rest the evidence in the trial of Hermann Goering and associates before the International Military Tribunal has made it abundantly clear that the so-called, "Final Solution of the Jewish Problem" had been carried into effect on direct orders from Hitler and Reich Leader SS Himmler, by SS Sturmbannfuehrer Rudolf Hoess at Auschwitz and Birkenau respectively; and the SS Gruppenfuehrer Globocnik in the neighborhood of Lublin.

In this connection I would refer to the statement of Rudolf Hoess, made on 5 April 1946 before the International Military Tribunal (page 7797 of the German transcript), which I submitted in this trial as Document 3868-PS, Prosecution Exhibit 51. It is apparent from this statement, which the prosecution did not contest, that Rudolf Hoess, in the summer of 1941, had been ordered to Berlin to take personal orders from the Reich Leader SS Himmler and that the latter gave him orders to make preparations for the so-called, "Final Solution of the Jewish Problem." Hoess, in addition, stated that Himmler had enjoined the strictest secrecy upon him, that the planned operation was to be treated as a "Top Secret" matter and that he had even not been permitted to give his immediate superior, the Inspector of the Concentration Camps, SS Gruppenfuehrer Gluecks, any information.

The evidence given before the International Military Tribunal furthermore proved also that the camps established by SS and Police Leader Globocnik in the district Lublin, had nothing directly to do with the Economic and Administrative Main Office and that the measures put into effect in these camps in the course of the so-called, "Final Solution of the Jewish problem," were exclusively the concern of the Security Police, the Security Service and the instruments of the Criminal Commissioner [Kriminalkommissar] Wirth. For details I refer to the statement of the witness, Dr. Georg Konrad Morgen, made on 7 August 1946 before the International Military Tribunal.* This statement was repeatedly mentioned in this Tribunal. The evidence before the International Military Tribunal has further clearly shown that the deportation of the Jews to Auschwitz-Birkenau and to the Lublin district was exclusively carried out by officials of the department IV B 4/A of the Reich Security Main Office. This was

* Trial of the Major War Criminals, vol. XX, pp. 487-515, Nuremberg, 1948.

the department of the Secret State Police which was in charge of Jewish affairs. Chief of this department was SS Obersturmbannfuehrer Eichmann who had been assigned this task by a direct order from Reich Leader SS Himmler. The evidence has therefore unequivocally shown that the circle of persons charged with the so-called, "Final Solution of the Jewish Problem," was strictly limited and very small, and that the Economic and Administrative Main Office had nothing to do with the actual execution of these tasks at any time.

The documents submitted by the prosecution at *this* trial confirm the evidence before the International Military Tribunal. Together with the statements of the defendant Oswald Pohl and of several other defendants, the following facts can be regarded as the outcome of the evidence at this trial:

1. As Prosecution Exhibit 459, the prosecution has submitted a letter from Reich Marshal Goering to the chief of the Security Police and the Security Service, Gruppenfuehrer Heydrich, dated 31 July 1941 (*Document 710-PS*). The text of this letter reads as follows:

"In addition to the task already assigned to you in the decree of 24 January 1939, to find the best possible solution of the Jewish problem in the form of emigration or evacuation in accordance with the actual situation, I herewith commission you to make all the necessary organizational, practical, and technical arrangements for a total solution of the Jewish problem in the German sphere of influence in Europe * * *."

The prosecution has not submitted the decree of 24 January 1939 which is referred to in Goering's letter of 31 July 1941. In view of the fact that this decree was issued before the war, it is practically certain that its contents had nothing to do with the measures which were later known under the name, "Final Solution of the Jewish Problem." This is also shown by the contents of the urgent letter addressed on 21 September 1939 by the chief of the Security Police to the chiefs of all "Einsatzgruppen" of the Security Police, which deals with the Jewish problem in the occupied territories (*3363-PS, Pros. Ex. 458*). In paragraph III of this urgent letter it is stated among other things: "All necessary measures are on principle always to be taken in closest contact and collaboration with the German civil administration and the local military authorities * * *."

Copies of this urgent letter were sent to the Army High Command, the Commissioner for the Four Year Plan (attention: State Secretary Neumann), the Ministry of the Interior (attention: State Secretary Stuckart), the Reich Ministry of Economics (attention: State Secretary Landfried), and to the chiefs of the

civil administration of the occupied territory. Neither the Economic and Administrative Main Office nor its chief, Obergruppenfuehrer Pohl, were informed of these instructions.

2. At the end of July 1942 the defendant Oswald Pohl was informed by Reich Leader SS Himmler that he had come to an agreement with the Reich Minister of Economics and president of the Reich Bank, Funk, and with the Reich Minister of Finance, Graf Schwerin-Krosigk, whereby "all the assets which in the course of measures taken by the police were obtained in the Occupied Eastern Territory, should be delivered to the Reich by way of the Reich Bank. He—the defendant Pohl—should make the necessary arrangements in agreement with the Reich Bank." The Reich Leader SS, however, gave no explanation or details of the assets involved, nor did he say from which group of people they were obtained.

Some days after receiving this order, the defendant Oswald Pohl rang up the vice president of the Reich Bank, Emil Puhl, to ask him whether he had already been informed by his president, Funk. He affirmed this, and asked Pohl to come to see him for a verbal discussion. On one of the next days Pohl actually went to the Reich Bank. The conversation with vice president Puhl lasted only a short time. The result was that each one was to nominate a commissioner from his colleagues, who in turn was to discuss all further details and supervise the execution. Puhl, too, was no better informed of the origin and the amount of the incoming assets than the defendant Oswald Pohl, himself.

After his conversation with the vice president of the Reich Bank, Puhl, the defendant Oswald Pohl discussed the matter with his deputy in office and chief of office A, Obergruppenfuehrer August Frank. Both of them agreed to commission the specialist of office A II, Hauptsturmfuehrer Melmer, with the execution of this task. He received the order from the defendant Pohl that each delivery arriving at the Economic and Administrative Main Office should be forwarded immediately to the Reich Bank. Pohl expressly forbade him to bring these deliveries or part of them into the Economic and Administrative Main Office, to open them, or concern himself with them in any other way. His activity was to be limited to personally forwarding each incoming delivery to the specialist nominated by the vice president of the Reich Bank, Puhl. This instruction, issued by the defendant Pohl, was necessary because the order of the Reich Leader SS expressly restricted the participation of the Economic and Administrative Main Office to the forwarding of the incoming assets to the Reich Bank, and because the Economic and Administrative Main Office did not dispose in its offices of adequate safe installations.

For these reasons the actual value was never assessed at the Economic and Administrative Main Office. The defendant, Oswald Pohl never saw such a delivery neither closed nor open. The number of the consignments received also remained unknown to him to the last.

In the course of time he learned about the composition of the consignment as regards coined and uncoined foreign exchange, as Hauptsturmfuehrer Melmer came to see him from time to time, at irregular intervals of 6 to 8 weeks, and reported to him on what the Reich Bank had paid into the account "Max Heiliger" in favor of the general cash department of the Reich Treasury [Reichshauptkasse]. Melmer had received these figures from the Reich Bank. He only made a note of them with the object of having figures at his disposal for a possible report to Reich Leader SS Himmler. A bookkeeping record, i.e., a ledger entry of the assets, was not kept by the Economic and Administrative Main Office. The defendant, Oswald Pohl, was only informed of the actual total amount which the deliveries to the Reich Bank had reached as far as the monetary value had been fixed by realization of these deliveries and had been paid in at the General Cash Department of the Reich Treasury in favor of the Reich. In other words, Hauptsturmfuehrer Melmer informed the defendant Pohl from time to time of the balance of the account "Max Heiliger". This name for the account must have been agreed upon by Hauptsturmfuehrer Melmer and the Reich Bank or the general cash department of the Reich Treasury, and it was obviously a cover name.

The delivery to the Reich Bank was a final one. There was neither a settling of accounts with the Economic and Administrative Main Office, nor any entry, or deposit in its favor. With the arrival and the delivery of the consignment to the Reich Bank, the Economic and Administrative Main Office and its chief Oswald Pohl considered the collection by the Reich—represented by the Reich Minister of Finance—as complete.

A closer investigation of the procedure by which the Reich Bank "realized" the assets received, as far as they did not consist of coins, is therefore not necessary.

According to the evidence submitted, these "Melmer consignments" reached the Reich Bank from August 1942 onwards at quite irregular intervals which did not become known to the defendant Oswald Pohl. The participation of the Economic and Administrative Main Office in the forwarding of these consignments was limited to the actions which I have described.

3. About the middle of September 1942 the Economic and Administrative Main Office received a letter from SS and Police

Leader, Gruppenfuehrer Globocnik, attached to which was the draft of an order by Reich Leader SS Himmler. Globocnik wrote something like this: in consequence of the evacuation of the Jewish population from the towns of the Government General ordered by the Reich Leader SS, considerable amounts of valuables are being obtained (foreign currency, jewels, coins, precious stones, and other things). The Reich Leader has ordered that the Economic and Administrative Main Office should issue this draft as an economic order.

The draft of Himmler's order which included the principles of and the directions for the whole procedure, had the handwritten remark by Himmler—"To be issued by the Economic and Administrative Main Office and to be extended to Auschwitz. Property of thieves, hoarders, and receivers of stolen goods."

This draft of Himmler's order served as basis for working out the instructions issued by the Economic and Administrative Main Office on 26 September 1942 regarding the "realization of property in connection with the resettlement and the evacuation of Jews," which was submitted by the prosecution as Document NO-724, Prosecution Exhibit 472. It was discussed by the defendant Pohl and August Frank, SS Brigadefuehrer at that time, and then worked out and signed by Frank. These instructions were sent to the chief of the Lublin SS headquarters and to the administration chief of the Auschwitz concentration camp, but not to any military offices nor to any offices of the Security Police or the Security Service, in particular not to the SS and Police Leader for Lublin or to the commandant of a particular concentration camp. This fact proves that it was a question of the economic realization of already existing valuables, and not of obtaining these valuables, possibly by seizure.

4. By teletype of 20 or 21 October 1942, addressed to Obergruppenfuehrer Pohl and to the Lublin concentration camp, the Reich Leader SS ordered that shoes and working clothes had to be surrendered for 10,000 Volksdeutsche (*NO-606, Pros. Ex. 151*). A further directive issued by Himmler, on October 1942 to Obergruppenfuehrer Pohl and to Obergruppenfuehrer Lorenz in his capacity as chief of the Main Office "Volksdeutsche Mittelstelle," ordered the delivery of "Household articles and clothing from the stores at Lublin and Auschwitz," to a series of groups of Volksdeutsche at Christmas 1942.

5. A written report was submitted to Reich Leader SS Himmler on 6 February 1943 on the execution of these directives. This report, "On the use made up to date of second-hand textile goods obtained owing to the resettlement of Jews," was submitted by the prosecution as Document NO-1257, Prosecution Exhibit 479.

It was drafted by the chief of office group B, SS Gruppenfuehrer Loerner, and the copy submitted by the prosecution bears the typewritten signature of the defendant Oswald Pohl. The defendant Oswald Pohl has no doubt that he saw this report at that time.

The appendix to this report contains the allocation, according to quantity, to the individual consignees named by Himmler. It was a question of 825 freight cars, 405 of which contained rags and second-hand materials which had been sent to the Reich Ministry of Economics. One freight car of women's hair (3,000 kilos) apparently came, according to the explanation given by the defendant Pohl, from the Lublin concentration camp, because generally the hair of women from the Eastern territories, in particular that of gypsies, was cut off upon their delivery to the camp.

6. In June 1943 the SS auditor at Krakow, Standartenfuehrer Schellin, reported to the defendant Pohl in Berlin. He complained that the SS and Police Leader for Lublin, SS Gruppenfuehrer Globocnik, prevented him from making the due examination of the payment department of the SS Lublin headquarters, which was one of the duties of the Krakow SS auditor. The payment department was an independent office of the Waffen SS and was not subordinated to the SS and Police Leader for Lublin, but to the SS auditor at Krakow.

As a result of the complaint made by Standartenfuehrer Schellin, the defendant Pohl sent the chief of office A IV, Obersturmbannfuehrer Vogt, to Lublin to make the examination of the payment department as prescribed by the Reich Treasury regulations; he sent the office chief Vogt himself, and not any subordinated specialist because the personal relations between the defendant Oswald Pohl and the SS and Police Leader for Lublin, Gruppenfuehrer Globocnik, were very strained, and because he was afraid that Globocnik would again prevent any commissioner of lower rank from making the examination.

Vogt received from the defendant Pohl the order to carry out the legally compulsory examination of the paying department of the Lublin headquarters. Vogt returned from Lublin to Berlin after about 8 days. About 2 or 3 days later—it may have been the end of June 1943—Vogt reported to Pohl and submitted to him a brief written report. On account of his findings on the spot, Vogt himself had broken off the examination, returning to Berlin. From this report of Vogt's, the defendant Oswald Pohl then learned for the first time that Gruppenfuehrer Globocnik carried out the order, given him by Reich Leader SS Himmler, for resettling the Jews, under the name of "Operation Reinhardt." Without having previously asked for the approval of the defend-

ant Oswald Pohl, he had appointed the Sturmbannfuehrer Wip-
pern for the financial side of this action. Now the defendant
Oswald Pohl became aware why Gruppenfuehrer Globocnik had
refused to release Sturmbannfuehrer Wippern for a front line unit,
though Wippern was in no way subordinated to him, and why,
also without Pohl's knowledge, Globocnik had addressed himself
to Himmler with the object of achieving that Wippern could re-
main at Lublin.

7. On 22 September 1943, Reich Leader SS Himmler sent a
letter to the defendant Oswald Pohl and to SS Gruppenfuehrer
Globocnik with the order "that Globocnik will take charge of
the clearing of the account Reinhardt 1 before 31 December 1943
and will then hand over the matter to Pohl or to the commis-
sioner of whom I am yet to be informed." (*NO-3034, Pros. Ex.*
485.) Globocnik himself informed Himmler by letter on 4 No-
vember 1943 (*NO-056, Pros. Ex. 473*); that on 19 October 1943,
he had concluded Operation Reinhardt and dissolved all the camps.
However, his statement in this letter that he had handed over the
labor camps to SS Obergruppenfuehrer Pohl, is incorrect. The
transfer of these labor camps only took place in January 1944.
At that time, Pohl had not received a copy of this letter of Glo-
bocnik's to Himmler, which Globocnik had already sent from his
office as Higher SS and Police Leader in the Zone of Operation
Adriatic Coast Territory, neither had he been informed of its
contents in any other way.

8. In a letter dated 5 January 1944 Globocnik submitted to the
Reich Leader from Trieste the report regarding the *economic*
winding up of Operation Reinhardt (*NO-064, Pros. Ex. 486*).
Globocnik complained in this report that "up to now Obergrup-
penfuehrer Pohl had not had time to carry out the transfer". Pohl
at that time, that is, January 1944, received a copy of this report.

The defendant Pohl participated in none of the discussions
which must have taken place between Himmler and Globocnik
about this operation. Neither of them at any time, either before
or after, enlightened him verbally or in writing as to the true
events. A veil of deepest secrecy lay over everything, as indeed
the whole operation was treated as "Top Secret."

The defendant Oswald Pohl was unable at any time during the
course of this operation to realize that it was being directed
exclusively against Jews. On the contrary—in the report regard-
ing the economic part of Operation Reinhardt (*NO-057, Pros. Ex.*
487), made by Globocnik himself, under paragraph B 7, it is
pointed out that about 52,000 workers were available for the
construction of plants. That this could only mean *Jewish* workers
can be seen from the purpose of Operation Reinhardt, to which,

according to Globocnik's representation, belonged the utilization of Jewish workers by concentrating them in camp plants to which war important production was transferred. It was known to the defendant Pohl that in all these plants Jews worked until the evacuation of the occupied area.

The defendant Pohl is still unaware today by whose order the Jews in Globocnik's labor camps were withdrawn on 3 November 1943. He himself [Globocnik] appears to have been surprised by these measures as can be seen from paragraph D 5 of his report dated 18 January 1944 (*NO-057, Pros. Ex. 487*).

9. It was not known either to Oswald Pohl or to his colleagues that the valuables arriving in Berlin from the East and Lublin originated from Operation Reinhardt. When he saw the report to Himmler written by the head of Amtsgruppe B on 6 February 1943 (*NO-1257, Pros. Ex. 479*) he was firmly convinced that it was a matter of textiles and second-hand material which had resulted from police confiscations in ghettos and warehouses as well as articles from the collections of second-hand materials which were carried out in the Government General exactly in the same way as it had been carried out by the "Reichskommissar for the Collection of Second-hand Material," in the Reich. Until the final report from Globocnik was submitted in January 1944 he had only seen two statistical documents concerning the valuations from the East, namely:

a. The report dated 6 February 1943 (*NO-1257, Pros. Ex. 479*), concerning textiles;

b. Melmer's report from autumn 1942 concerning the deposits made by the Reich Bank at the Reich Treasury to the "Max Heiliger" account of the Reich Ministry of Finance.

10. At no time was Gruppenfuehrer Globocnik assisted by personnel from the Economic and Administrative Main Office being transferred to him. "Department Reinhardt," and "Special Task G," established by him were working groups which he had established in Lublin and supplied with personnel from the Lublin administrative offices without having obtained the permission of the Economic and Administrative Main Office. The existence of these working groups only became known to the defendant Pohl through the final report of Globocnik. These working groups were directed by Globocnik himself and were only responsible to him.

11. The valuables forwarded to Berlin from the East (Lublin) reached three different destinations—

a. Cash (amounts in Reichsmarks) was remitted to the Economic and Administrative Main Office (Reich Bank account No. 1288 in Berlin-Schoeneberg). Here it was collected and the Reich

Ministry of Finance notified so that they might take possession of it. The highest amount was 12 million Reichsmarks.

b. Gold, jewelry, and instruments of foreign exchange went to the Reich Bank in Berlin and through the hands of the already mentioned Hauptsturmfuehrer Melmer. The Reich Bank converted the part which they were unable to realize through pawnbrokers and remitted the entire equivalent value to the Reich Treasury, to the "Max Heiliger" account on behalf of the Reich.

c. Watches and fountain pens were delivered by Melmer for repair to the repair shops which had been set up in the Oranienburg concentration camp (Sachsenhausen). There they were put in order and were delivered to certain places requiring them, according to Himmler's instructions. The deliveries were made against payment in favor of the Reich in as far as the articles were not used by Himmler as Christmas presents for the troops.

12. The auditing of the whole operation in which the defendant Vogt became quite unwillingly involved in June 1943, took place later through Hauptsturmfuehrer Melmer, who used the reference A II/Reinhardt in his correspondence in this connection. The auditing took place in Berlin, where Wipperfurth sent in the documents of account.

13. The prosecution has submitted as evidence an excerpt from the Reich Leader's SS speech in Poznan on the occasion of the meeting of the Gruppenfuehrer on 4 October 1943 (*1919-PS*).* On this meeting—as is apparent from the speech itself—the Reich Leader SS spoke for the first time about the extermination program ordered by Hitler against the Jews in front of the Gruppen and Obergruppenfuehrer. When questioned in the witness box the defendant Oswald Pohl admitted that he had taken part in the meeting on 4 October 1943 and that he had listened to the speech made by the Reich Leader SS. He then heard for the first time of the measures of extermination carried out against the Jews. In Himmler's speech these measures were represented as having been concluded. In fact it is clear from the documents submitted by the prosecution that by this time, namely, 4 October 1943, "Operation Reinhardt" had been completed. The hearing of the evidence has shown furthermore that not only the defendant Pohl was surprised by Himmler's report but that other Obergruppenfuehrer who took part in the Poznan meeting, also heard on this occasion for the first time of the extermination program.

The defendant Pohl furthermore admitted when questioned in the witness box that after receiving the copy of the letter written on 5 January 1944 (*NO-064, Pros. Ex. 486*) by SS Gruppen-

* Introduced before the International Military Tribunal as USA 170. See Trial of the Major War Criminals, *op. cit. supra*, vol. XIX, p. 543.

fuehrer Globocnik to the Reich Leader SS, he no longer had any doubt that at least a part of the valuables which were listed in the appendix to this letter were connected with these measures of extermination and originated from them.

The legal analysis of the facts brought to light by the hearing of the evidence leads to the following result:

I

The provisions of the *Control Council Law No. 10* must be used as *the starting point*. Of the crimes mentioned there under Article II, paragraphs 1(a)–(d), the *war crimes* in paragraph 1b and the *crimes against humanity* in paragraph 1(c) are to be discussed here.

War crimes (par. 1(b)) are crimes violating the laws and customs of war. Reference is made to the examples mentioned in this law.

Crimes against humanity (par. 1(c)) have already been mentioned in detail elsewhere. Reference should also be made to this.

II

The acts with which the *defendant Oswald Pohl* has been charged as Head [Chief] of the Economic and Administrative Main Office (WVHA) are, in short, the following: He is *supposed* to have *taken a responsible part* in the *extermination of the Jews in Europe*, as it is summarized under the heading “Final Solution of the Jewish Problem,” (so-called “Operation Reinhardt”).

In this it may be considered as *established* that the WVHA and its chief were *not directly* involved in these measures, because they had no executive bodies for this purpose at their disposal and that the “final solution” was carried out on the direct order from Hitler and the Reich Leader SS Himmler by SS Sturm-bannfuehrer Rudolf Hoess in Auschwitz and Birkenau and by SS Gruppenfuehrer Globocnik in the Lublin area.

The *decisive legal question* to be answered, therefore, is whether, in spite of immediate participation being thus precluded, any other kind of “*participation*” in the proceedings described could be ascribed to the defendant Pohl in a legal sense. When dealing with this question it would seem necessary to distinguish between the time when the defendant, as the evidence has shown, still had *no knowledge* of the extermination measures carried out against the Jews and the time when he had *obtained* such *knowledge*—whether he is to be charged with having such knowledge since receiving the report concerning the sale hitherto of second-hand textiles obtained through the deportation of the Jews, dated 6 February 1943, or more correctly whether it is to be assumed

that he only obtained such knowledge from the speech of the Reich Leader SS given at the meeting of Gruppenfuehrer in Poznan on 4 October 1943. However, such a distinction should not be made generally but only in individual cases where the occasion demands it.

III

With regard to such a "participation II," the *Control Council Law No. 10 in Article II, paragraphs 2(a)-(f)* gives exact directives concerning the question as to who shall be "deemed to have committed a crime as defined in paragraph 1 of this article". In Article II, paragraphs 4(a) and (b) and paragraph 5 it lays down simultaneously that pleading an official position is no defense, that consideration for an order from the government or from a superior should be limited, as well as declaring that the statutes of limitation possible immunity, pardon, and amnesty are not applicable to the time from 30 January 1933 to 1 July 1945.

In applying the provisions of Article II, paragraph 2, the following premise must first be made as being *basically related* to the case: The Control Council Law No. 10, Article II, paragraphs 2(a) and (b) uses the two technical expressions of Anglo-American legal terminology "principal" and "accessory." According to *Beale* this ancient distinction between principal and accessory before the fact has for a long time been abolished in various States of the United States of America (*Comparative Description of Present Day Criminal Legislation*, vol. II, 1888, p. 206). It follows from this that the Control Council Law No. 10 does *not* intend the expressions mentioned to be understood in the sense of a *special* legislation be it American or English, but in the sense of the English *Common Law* which applies to both the United States and England (*Beale*, in place quoted on p. 198 and *von Hippel*, *German Penal Law*, vol. I, 1925, p. 433). The latter must therefore be the basis of what follows.

This, however, is still not exhaustive. In proceedings of the present type the sentence, "*nulla poena sine lege*" is unfortunately repeatedly questioned *in general*, although such an eminent legal expert, at the same time a member of the International Military Tribunal, as *Donnedieu de Vabres*. (*Les Principes Modernes du Droit Penal International*, vol. II, 1928, p. 407) calls that sentence, "an essential guarantee of liberty, a fundamental principle of justice, the application of which to international crimes could not be doubted." This questioning is completely erroneous; as if in Anglo-American Law *arbitrary justice* took the place of this sentence. (Reference: the recent lively reaction towards a conviction in spite of the fact that it was expressly

concerned with *older convictions*, in the case of *Schoenke*, Reich Penal Code 3, commentary supplement 1946, p. 41). However, that may be, no doubt can or may be raised regarding the *special application of the law covering the deed which was valid at the time of the deed*. The acts committed by the defendant took place and were executed under the jurisdiction of *German Law*. According to internationally recognized legal rules, therefore, his activities must be judged according to *German Penal Law* (in any case in as far as this law has *nothing whatever* to do with *National Socialist* principles, as is the case here). In other words, when interpreting Control Council Law No. 10, Article II, paragraphs 2(a)–(f), which is to be examined in detail subsequently, *international justice* also demands consideration of *German* legal opinions. Only in as far as “participation” can be established *also* in accordance with them, may the defendant be convicted.

IV

Here the *Control Council Law No. 10, Article II, paragraphs 2(a) and (b)* is to be discussed. “*Principal*” (par. 2(a), translated as “*Taeter*”), and “*accessory*” (par. 2(b), translated by “*Beihelfer*”) are *technical* terms employed by Anglo-American Common Law. Within the meaning of each of these terms certain more narrow terms are stressed. For the following, reference should be made to *Stephen’s Commentaries of the Laws of England*, volume IV, Criminal Law, 19th edition, London 1928; *Archbold’s Pleading, Evidence and Practice in Criminal Cases*, 31st edition, London 1943.

1. According to *Stephen* (pp. 28–30), in the case of “*felonies*” the Anglo-American Law recognizes the two forms of “*Principal in the first degree*,” and “*principal in the second degree*”.

a. “*Principal in the first degree*” is “the actor or actual perpetrator of the crime,” (p. 28) thus the actual and direct principal and not simply every accessory within the meaning of article 47 of the Reich Penal Code. The defendant Pohl does not come under this heading.

b. A person becomes “*principal in the second degree*” under two conditions—“He must be present at the scene of the crime and he must assist in its commission” (p. 29). The application of the term is impossible from the outset as the first condition is not fulfilled.

2. According to *Stephen* (pp. 30–32) concerning “*accessories*,” Anglo-Saxon Law distinguishes between, “*accessory before the fact*,” and “*accessory after the fact*,” in the case of felonies.

a. “*Accessory before the fact*,” is one who, though absent when the felony is actually committed, procures, counsels, or commands

its commission." These conditions are also not fulfilled here. "Procure" means to effect, to bring about, or to cause. Before the speech at Poznan given by the Reich Leader SS on 4 October 1943 (or before 6 February 1943) the defendant had not once been informed of the operation much less did he instigate the operation himself. Nor did he do this after being informed. "Counsel" means to advise, to recommend—"command" means to order, or to bid; in the same way, neither is applicable. *Wilsher*, *The Elements of Criminal Law and Procedure*, 4th edition, London (1935) page 22, expressly adds to his definition, "actively counsels, etc.", thereby the rejection becomes even more clear. Reference should also be made to the statements by Archbold (pp. 1434 ff.) in the same sense. Thus the term, "accessory" cannot be applied in this case.

b. "Accessory after the fact" according to *Stephen* (p. 31) is, "one who, knowing a felony to have been committed, received, relieves, comforts, or assists the felon." Three conditions are required—(a) the commission of a felony; (b) the knowledge of the accessory, and (c) the assistance which he affords."

Is it possible to be "an accessory (to participate) after the fact?" It is appropriate in this connection to refer briefly to the continental development of law as far as this question is concerned—and to the German Law in force (further details can be gathered from the treatise in the periodical for the entire criminal jurisprudence (vol. 59, pp. 549 ff.) about the so-called *Ersatzhehlerei*—i.e., acts of concealing stolen property, the proceeds therefrom, or the objects acquired in exchange for them). Even the medieval Italian Penal Law distinguishes according to the relation in time of the act to the assistance, between "*auxilium ante delictum*, in *delicto* and *post delictum*"; therefore it recognizes, though with certain modifications, a so-called subsequent assistance as *auxilium subsequens*. Viz Albertus Gandinus, Bartolus, Angelus Aretinus and Clarus (p. 554). Following the *Constitutio Criminalis Carolina* (Peinliche Gerichtsordnung) of Charles V (CCC) of the year of 1532 and its—as a matter of fact disputed—articles Nos. 40 and 177 (p. 556), the development of the common law also adheres to the idea of "accessory after the fact" as it provides for the *auxilium post delictum* (pp. 556–557). Only Pufendorf, and in the 18th century Kress and I.S.F. Boehmer seem to deviate from this idea: *socius delicti* in the narrower sense of the term is only he who "*antecedenter se ad crimen habuit tamquam concausa*" (p. 557). Especially the Austrian Law of the *Constitutio Criminalis Theresiana* of 1768, Article 3, paragraph 10 and following paragraphs, considers the aid and assistance, *after* the act has already been committed, as a "particular

crime," and therefore illustrates the effects of the "Verselbstaendigungsgedanke," (i.e., the endeavor to let certain acts appear as punishable offenses even after the commission of the main offense) in cases where abetting and receiving are concerned. This development then continues in the 19th century and can be traced in the German Special Law Codes and in the Reich Penal Law Code of today. It more or less forms the basis for Article 257, and following, of the Reich Penal Law Code—abetting and receiving—i.e., taking part after the main crime has been committed, is no longer an act of participation within the meaning of Article 47 and following, of the Reich Penal Law Code, but independent acts subject to individual punishment. Only the abetting promised before the crime has been committed, is to be dealt with and punished as assistance in accordance with Article 257, 3d par. of the Reich Penal Law Code. (For further details see Leipzig Commentary on Reich Penal Law Code, 6th Edition 1944, Article 257 I.) The conception of "*auxilium post delictum*," as such can no longer claim consideration in modern German Law. That is to say—after completion of the deed nobody can afterwards take part in it. Though the German Law recognizes the condition of "subsequent accessory," Article 47 of the Reich Penal Law Code and "subsequent assistance," (Leipzig Commentary on Reich Penal Law Code at the place indicated on pp. 322-340, quoting references). Such "participation" of the defendant Pohl as an accessory or assistant in the so-called Operation Reinhardt actually never took place either on 4 October 1943, or later.

The defendant Pohl's acts took place under the German Law—he should benefit by this fact and for this, if not for any other reason, punishment is out of the question, after what has been said. But even quite apart from this and from the point of view of English Law the term, "accessory after the fact," cannot be applied in this case, for here the necessary "assistance" is lacking, as has been explained before. The latter is interpreted by Stephen to the effect that—"active (!) assistance must be given to escape, or conceal him from the police, or even destroy incriminating evidence in order to avoid conviction. A mere omission (!) to prevent the felon's escape or to inform the police of his movements will not render a person an accessory, though it may amount to the technical offense of misprison of felony," (cf. p. 143).

From these elaborations follows in the first place, the important fact that only "active assistance" can constitute a crime, and that therefore *a priori* no attempt should be made to formulate any offense for neglect. But still further facts emerge. The term, "accessory after the fact," applies to the abetting of the principal personally. Only this, if anything, can come under Ar-

ticle II, paragraph 2(b). In other words, so-called objective abetting, which Article 257 of the Reich Penal Law Code places beside *personal* abetting, is not "participation after the fact" as viewed from the angle of German Law and *not even an instance of "accessory after the fact" from the point of view of Anglo-Saxon Law*. Therefore, Article II, paragraph 2(b) of the Control Council Law No. 10 can in no way be considered as applicable in this case.

Other relevant literature also agrees with this restriction to so-called personal abetting of the principal, the premises for which are not given in this case.

Wilsher, on page 23, says even more distinctly than has been quoted so far: "receives, harbors, or maintains the felon (!), that is to say gives him (!) any assistance whatever in order to hinder his (!) apprehension, trial, or punishment (I). *Archbold* repeats on page 1441: "An accessory after the fact is one who, knowing a felony to have been committed by another, receives, comforts, or assists the felon;" on page 1442: "But merely suffering the principal to escape will not make the party an accessory after the fact (mere omission)." The remark on page 1443 is also important for the rejection of the idea of objective abetting: "The receipt of stolen goods did not at common law constitute the receiver an accessory, but was a distinct misdemeanor." The denial that the defendant Pohl acted in the capacity of an "accessory after the fact" must therefore stand.

3. Furthermore Article II, paragraph 2(b) states that responsible is he who "ordered," or "abetted" the crime. "Order" means to give instructions, to command; "abet" means to incite, to instigate. There is no doubt that both are *not* applicable here.

V

Here Control Council Law No. 10, Article II, paragraphs 2(c) and (d) are to be discussed. According to them, he is responsible who (c) "took a consenting part therein," or (d) "was connected with plans or enterprises involving its commission."

1. As for paragraph 2(c) "*took a consenting part therein,*" the translation at hand reads: "durch seine zustimmung daran teilgenommen hat."

The version as used here is apt to be applied wrongly, especially as the translation cited is also *misleading*; "Zustimmung" (this is how "consenting part" is translated here) is a *generic term* as defined by Articles No. 183-184 of the German Civil Law Code, and as such comprises "previous consent or agreement" (Art. 183 of the Civil Law Code), and consent after the fact or *approval* (Art. 184, Civil Law Code). It is, however, evident that

here (in Control Council Law No. 10, par. 2(c)) only former, *previous* consent, that is agreement, can be meant; in this respect the wrong translation of that passus must be *corrected*. For it is absolutely impossible that anybody should share in the responsibility for a crime that has already been committed and completed, by giving his "*subsequent* consent (approval)." This would run counter to all established principles in penal law. But above all, it would be inconsistent with the meaning of the *English* text and with the usual meaning of the words "consenting" and "consent": whenever, "consent" occurs in Anglo-Saxon Penal Law then it means the so-called agreement of the injured party (cf. Stephen, pp. 42, 43, 61, 62 and 82; or Archbold, pp. 929, 1021, 1052, and others) that is in the sense of genuine agreement (previous consent) and never in the sense of subsequent approval.

Such previous consent on the part of the defendant Pohl to the so-called Operation Reinhardt, which would render him personally responsible for the latter *cannot* be proved. Until 4 October 1943, he had no knowledge whatsoever of the aims of this operation, he only learned of them through the speech which the Reich Leader SS delivered in Poznan. As the operation had been concluded by that time, "agreement" to further and future measures of extermination must of necessity be out of the question. On the other hand, "approval" of past measures could no longer form the basis for criminal responsibility. But even if we would, unjustifiably, ante-date Pohl's knowledge of the matter to 6 February 1943, that would not alter the result, for even then every proof would be absent as regards "agreement" to future extermination measures (knowledge itself does not suffice, just as little as remaining in a position which had nothing to do with the measures as such) and this could not be replaced by any "approval," which one might possibly (and, as a matter of fact, wrongly) think could be discovered in the subsequent utilization of the various parts of the property. Therefore Article II, *paragraph 2(c)*, Control Council Law No. 10, also fails to establish responsibility on the part of the defendant Pohl under penal law.

2. According to Article II, *paragraph 2(d)* the defendant has already committed a crime, as defined under *paragraph 1* if he "*was connected with plans or enterprises involving its commission.*" The translation at hand of that passage reads as follows: "mit seiner (d.h. eines solchen Verbrechens) Planung oder Ausfuehrung in Zusammenhang gestanden hat."

"Connected," quite generally means to be associated with (verbunden sein). Beside the plans, the enterprise itself is mentioned. Both must involve the commission of the crime. Despite

this loose linguistic wording the actual meaning of the provision can only be that the person charged must *actively have participated* in plans for and the commission of the crime; this is indicated by the last phrase, "involving its commission," and eliminates every doubt in this respect. This "commission" of the crime is *in contrast* to the mere utilization of what has been gained by the crime. The provision therefore does *not* apply to the defendant Pohl.

VI

Here Control Council Law No. 10, *Article II, paragraph 2(e)* is to be discussed, according to which everyone is responsible who "was a member of any organization or group connected with the commission of any such crime." Paragraph 2(*f*) refers exclusively to crimes against peace within the meaning of Article II, paragraph 1(*a*) and therefore does not arise here. The most important point to be decided is contained in the question, whether the defendant Pohl as chief of the Economic and Administrative Main Office belongs to one of the "organizations or groups" named; as for the restriction imposed by the words, "connected with the commission," reference should be made to the explanations given at the end of the foregoing section. There is actually no difference of any importance between, "organization," and "group," as the term "group" does not simply imply an agglomeration of any number of persons, but premises presuppose that an inner unity exists. The fundamental idea of such a *coming together* is always the "*purpose*" which is aimed at and followed; without it an "organization" or "group" of the kind mentioned is unthinkable; and this purpose, which is known to each member and denied by him, must, according to the wording of the provision, be *directed* towards the "commission of any such crime."

For the correct understanding of this passage, too, reference should be made to the general remarks previously advanced; the defendant acted under German Law, therefore, the interpreting rules and terms provided by the latter must be taken into consideration in detail. Useful guides for what constitutes such a criminal "organization," or "group" are given in the first place by the literary discussions concerning Article 128 of the Reich Penal Law Code, which are based on the conception of the prohibited participation in certain "associations." The literature authorities in this respect (Binding, textbook vol. II 1905, p. 904; von Liszt Schmidt, textbook German Penal Law, 25, edition 1927, p. 858; Frank Reich Penal Law Code commentary, 18th edition 1931, Article 128/I; Schoenke Reich Penal Law Code Commentary, 2d edition 1944, Article 128/II; Leipzig Commentary Reich Penal

Law Code, 6th edition 1944, Article 49b, No. 2) unanimously considers the guiding "purpose" in particular as significant of the fundamental idea of such an association. Differences of opinion which may occur on details (the association's dependence on, or independence from, changes in its membership and the like) are irrelevant in this connection.

This "*purpose*" of the organization or group, which of course, applies only inasmuch as he who shares the responsibility knew of it, and which in addition, he made his *own* purpose, must refer in particular to the commission of a crime according to *Article II, paragraph 1* ("connected with the commission of any such crime"). For this, there is no proof of any kind in this case. The defendant Pohl was chief of the Economic and Administrative Main Office. The purpose of this office—if one can talk of an "organization," or "group" in this respect at all, which may justifiably be doubted at first—was exclusively of an *economic* nature, while the "purpose of exterminating the Jews in Europe"—as was established and explained above in more detail—actually was *not* carried into effect by such an "organization," but "on the *direct* orders of Hitler and the Reich Leader SS Himmler," that is to say that it was conceived by Hitler and Reich Leader SS Himmler and on their *direct* orders was carried into effect by their immediate subordinates. This was a "top secret" (not the aim of an organization or an independent group!) and was concealed from the defendant Pohl and his assistants. The defendant did not know at all where the valuables came from, and even when it came to his knowledge (4 October 1943, or 6 February 1943), he did not join any "organization," or "group" which on its part would have pursued that "purpose." No one has tried to maintain or prove this, quite apart from the fact that at that time the crimes in question had already been committed and were not just being contemplated.

Consequently in this respect (Art. II, par. 2(e)), as in every other criminal responsibility on the part of the defendant Pohl cannot be substantiated.

I have stopped at the investigation of the legal status of the Reinhardt Action and the defendant Oswald Pohl's responsibility into penal law in this connection, and I start now with page 128, paragraph VII.

Thus, the legal valuation of the foregoing facts has been carried through in every direction relevant to the case. Further crimes, for instance, "*Genocide*," within the meaning of the Resolution of the General Assembly of the United Nations on 11 December 1946, or the like, are not under discussion. The Economic and Administrative Main Office had no right of seizure of its own,

so that from this aspect, too, there is no need for further examination. The defendant Pohl had no possibility whatsoever of preventing Himmler's extermination program by taking measures himself; even had he resigned from office when he received knowledge of it (4 October 1943, or 6 February 1943), the carrying into effect of the measures that had been planned by others would have continued in exactly the same way. His remaining in office had, therefore, no causative influence on the criminal occurrences; it is legally irrelevant.

Therefore, the defendant Pohl must be considered as "not guilty" within the meaning of the indictment (II) preferred against him.

On page 129, under No. 10 starts the legal valuation of the facts concerning the Warsaw ghetto and the documents introduced by the prosecution in Document 20. I would appreciate it if the Tribunal would take judicial notice of these remarks. There are 11 pages altogether. In my final plea I will now turn to No. 11, which begins on page 140.

* * * * *

11. *Acting on Orders*

The defendant Oswald Pohl in uniformly directing the labor allocation of concentration camp prisoners, acted on the direct orders of his military superior, the Reich Leader SS and chief of the German Police. As shown by the evidence, the order given by Himmler to the defendant Pohl, which was closely connected with the simultaneous incorporation, in matters of organization of the Inspectorate Concentration Camps into Economic and Administrative Main Office, can be traced back to a directive issued by the head of the State and the Chief Commander of the Wehrmacht, providing, at the same time, for the nomination of a Plenipotentiary General for Labor Allocation.

The prosecution has, within the preliminary proceedings, submitted a number of documents which also unequivocally prove that the defendant Pohl acted by direct command of his military superior.

In these cases, the defendant Oswald Pohl was no less bound by this order given to him than any soldier in any other army. A refusal to carry out the orders issued to him could all the less be considered by the defendant Oswald Pohl as, at least from the year 1942 onwards, Germany was involved in a war imperiling the vital foundations of the entire nation. Pohl was bound to obey the orders imparted to him and could not be expected to investigate the legality of these orders. Nor was this feasible for

him. This could no more be expected from him than, for example, from the Commander in Chief of the American Air Force, having received the order to attack the Japanese towns Nagasaki and Hiroshima with atom bombs. *The legal evaluation of the facts of this case leads to the following result:*

Obedience to a binding, even if illegal, order by the subordinate constitutes for him an *exculpatory cause*, therefore, *rendering him exempt from punishment*. This is questionable only inasmuch as some do not only excuse the subordinate's action, but, over and above, pronounce it as "justified." A further examination of this controversial question within these proceedings does not seem necessary, the result being identical in both cases, i.e., the perpetrator's exemption from punishment.

PRESIDING JUDGE TOMS: Let me ask you a question, Dr. Seidl. Suppose Himmler had commanded Pohl in writing, and as his superior military officer, to cut the throat of every five-year-old child in Poland, and Pohl had done so. Would that be a legal excuse, if he were charged with murder?

DR. SEIDL: Indubitably, your Honor, it would not be a legal excuse for the very simple reason that this would be a crime. I shall come back to this point in my further deliberations.

Your Honor, I believe this question will be clarified in a few minutes.

In view of the fact that, as a matter of principle, the law prevailing at the time of action must be applied, the defendants having lived within its applicability at the given moment and being bound by it, the question must, therefore, be examined within the compass of paragraph [section] 47 of the German Military Penal Code. According to this regulation the obedient subordinate is liable, "to punishment as an accomplice if cognizant of the fact that the order of the superior concerned an action purposing a general or military crime or violation of the law."

* * * * *

However, it is not the case that paragraph [section] 47 of the German Military Penal Code, as has been assumed in isolated cases, in itself rules in how far military orders are binding or not. This is a question of the public and administrative law.

PRESIDING JUDGE TOMS: Let me ask you another question, and you can answer it when you like, are we trying this case under the provisions of the German military code?

DR. SEIDL: I didn't quite understand your question, your Honor.

PRESIDING JUDGE TOMS: Are we trying this case under the provisions of the German military code?

DR. SEIDL: According to the indictment, your Honor, the acts of these defendants are governed by Control Council Law No. 10.

I have already discussed this basic question in paragraph one of my final plea, and I have also pointed out that this Control Council Law is against an important and generally accepted rule of order, namely, the basic principle of *nulla poena sine lege*.

Even then, if one is of the opinion that Control Council Law No. 10 is to be the basis of this trial; then, I am still of the opinion, your Honor, that when interpreting Control Council Law No. 10, certain legal convictions and certain legal interpretations are to be used which will consider that law under which these defendants were at the times those alleged crimes occurred. Control Council Law No. 10 is a law which is based on general principles, and which does not answer all questions. Therefore, it must be interpreted in all sorts of ways. When interpreting this law, I am of the opinion that there, first of all, we have to also use the German Law at the same time, because these defendants lived under the German Law, and because at the time of the act that German Law was binding for them. I shall deal with this question later on in connection with acting upon orders, your Honor.

PRESIDING JUDGE TOMS: What about alleged crimes committed in the Ukraine, or in Russia? Shall we apply the German Penal Code to those acts?

DR. SEIDL: If those are crimes which were not committed in Germany but, for instance, in the Soviet Union, then I am of the opinion that in such cases there is the possibility of having the criminals tried under the law which was valid at the place where the crime occurred, for instance, according to Soviet Russian Penal Law.

PRESIDING JUDGE TOMS: So that whatever you quote from the German Penal Code, or the German Military Code, has no application to alleged offenses committed outside of Germany?

DR. SEIDL: I am not of the opinion that it does not make any difference at all, your Honor. For instance, when discussing the question if acting upon orders should be interpreted or evaluated according to German or foreign penal code I am of the opinion that the German legal concepts are to be taken into consideration along with the international one because this is a relation between a German subordinate and a German superior. On the other hand, however, there is no doubt that an act—for instance, a murder, or if a person has been injured bodily—which was committed in Poland or Russia is to be judged in accordance with the penal laws of that country. In any case, I think it would be possible. Apart from that, however, your Honor, I am of the opinion that there would not ensue too great difficulties for the reason that the terms, "murder," or "bodily injury," do not vary very much in international penal codes; and, furthermore, an act which is mur-

der according to Polish or French law, is murder also according to the German Penal Law.

PRESIDING JUDGE TOMS: And according to international law?

DR. SEIDL: Yes, indeed.

PRESIDING JUDGE TOMS: Go ahead.

DR. SEIDL: I shall continue on page 145, at the bottom.

However, it is not the case that paragraph [section] 47 of the German Military Penal Code, as has been assumed in isolated cases, in itself rules in how far military orders are binding or not. This is a question of public and administrative law. But, as under other military conditions, there must always be "an official order". This must be taken for granted with the defendant Oswald Pohl. It results from the documents submitted by the prosecution and from his position as general of the Waffen SS and chief of a military force and office.

As is evident from its wording, paragraph [section] 47 of the German Military Code requires the punishment of the subordinate only when he "*has been cognizant of the fact*" that the superior's order "concerned an action purposing a general or military crime or violation of the law." In all other cases the punishment is applied only to the commanding superior.

Similarly to most military tribunals of other armies, the jurisdiction founded on paragraph [section] 47 of the German Military Penal Code discloses the tendency of a far reaching reduction in the penal liability of the subordinate. The fact as such remains unalterable though this tendency proceeds from the aim of "securing, in the interest of discipline and constant readiness, the obedient performance of duties incumbent on the subordinate." Here, the point in question is to estimate correctly *the legal position at the time of the action*.

Paragraph [section] 47 of the German Military Penal Code establishes penal responsibility of the subordinate only if he was "*cognizant of the fact*" that the order concerned an action "purposing" a crime or the violation of the law. For this, German jurisdiction demands "*positive knowledge*" on the part of the acting subordinate, this specially excludes cases of mere doubt (limited purpose or design) or mere acquaintance (negligence). Insufficient, in this connection, is also the supposition that obedience in complying with an order of its own accord resulted in the perpetration of a crime or violation of the law. This must, on the contrary, have been intended by the superior and the subordinate must have been *cognizant of the fact*.

In applying these principles there can be no doubt that these prerequisites were not fulfilled with regard to the defendant Oswald Pohl. He considered the order which had been issued to

him to direct the labor allocation of prisoners centrally and from uniform points of view at the ministerial level, as a wartime measure, indispensable because of the war, and of conditions created by the war. The same applies to the other commands given *directly* to the defendant Oswald Pohl, some of which are to be found among the documents submitted by the prosecution.

It is true, in answer to this reference will be made to Article 8 of the Statute for the International Military Tribunal, ruling that the fact that a defendant has acted by command of his government or his superior does not imply exemption from punishment but may be regarded as extenuating if in the opinion of the court this appears justified.

Similarly Article II 4(b) of the Control Council Law No. 10 states that the fact of somebody having acted on the order of his government or his superior does not exempt him from responsibility for a crime but may be considered as an extenuating circumstance.

In answer to this objection the following must be pointed out:

The defendants were, at the time of their action, under the jurisdiction of *German Law*; according to it the measure of their responsibility was assessed and in fairness, even today, reference must be made to that period. The following should, however, be emphasized if the Court decides that the legal regulations in force at the time of perpetration are not applicable, basing its judgment on Control Council Law No. 10 in spite of the fact that this represents an open violation of the rule against the retrospective force of penal laws.

Even from the above-mentioned provision of the law established by the Control Council the statement cannot be derived that every order of a superior is in any case legally *without significance*. This holds good also for the question whether punishment is excluded, and, subsequently, penal exemption. The provision merely states that the fact of such an order in itself does not exempt from responsibility for a crime but, by no means, does it preclude the possibility of this fact, together with other facts, being of importance in this question.

The *guiding legal* point of view for these considerations is contained in the idea of the so-called *conflicting obligations*. According to it, in order to arrive at a just valuation of the case, the personal position of the perpetrator at the moment of his action will also have to be weighed. This applies, above all, to the personal position in which the perpetrator has been placed by a higher order bonding and influencing him. The "order" may, according to the actual position, further modify to his advantage the extent of his culpability.

The great German jurist Reinhardt Frank in referring to *conflicting obligations* has established the following: "Inasmuch as conflicting obligations have not been specially classified the pronouncement must be in force that the higher, weightier, more important obligations must be fulfilled at the price of the lesser and that nonfulfillment of the latter is therefore not illegal."

It has rightly and repeatedly been emphasized in this connection that the decision, in such circumstances, on the conflict of obligations varying in nature is ultimately not a question of law but of ethics. Therefore, a certain latitude must be allowed to the conscience of the individual in such a position; here it is not possible to achieve everything with the rough measures of a penal regulation. This specifically "personal" character of genuine ethical conflicts has also found full expression and complete acknowledgment in the standard philosophical works. Nicolai Hartmann, for instance, *Ethics* (2d edition, 1935, pp. 421-22) says the following about genuine conflicts of values:

"It is a fatal error to believe that such questions can be solved on principle and theoretically. There are borderline cases where the conflict of conscience is very difficult, demanding varying solutions according to the particular ethics of the individual. For the juxtaposition of values is one essential factor in these conflicts, making it impossible to solve them without committing a wrong. Accordingly the human being placed in the situation cannot avoid making a decision; what he should do in the face of serious, responsible conflicts in this: *Make a decision to the best of his conscience, i.e., following his own strong sense of values and bear the consequences.*"

There should be no need for further proof of the impossibility, above all from an *ethical point of view*, of measuring such *personal* decisions from the point of view of penal law.

12. *The Limits of the Criminal Responsibility of the Defendant Oswald Pohl in his capacity as Chief of the Economic and Administrative Main Office*

As chief of the Economic and Administrative Main Office the defendant Oswald Pohl was head of one of the supreme Reich authorities which in Berlin alone at times employed up to 2,000 officers, noncommissioned officers, soldiers, officials, and employees. Its main task was the material well-being of almost one million men of the Waffen SS. With regard to the details of the organization and its task, I refer to the statements of the defendants in the witness box and the organization charts (*NO-620, Pros. Ex. 33*), submitted by the prosecution. The most pressing of these tasks were the provision of clothing, food, and pay for these

troops, the settlement of all budget matters and the building of barracks, administration building, and hospitals.

Apart from this the defendant Oswald Pohl was in charge of five building Inspectorates and seven main warehouses.

In his capacity as chief of office group W he was director of the DWB Konzern (Deutsche Wirtschaftsbetriebe G.m.b.H.) and had to supervise and manage no less than 60 sometimes very large plants of this office group.

By order of the Reich Leader SS Himmler, issued on 3 March 1942, he was put in charge of the uniform direction of the allocation of concentration camp labor. Although the *formal* incorporation of the Inspectorate of Concentration Camps into the Administrative and Economic Main Office did not involve a change in the organization and functions of either the Administrative and Economic Main Office or of the Inspectorate of Concentration Camps, it did mean the personal subordination of the Inspector, whose tasks consisted of the administration of 13 concentration camps and about 500 labor camps, to the chief of the Administrative and Economic Main Office.

These *independent offices* were distributed all over the Reich and parts of the occupied territories. This fact alone proves the impossibility of constant personal supervision. It is evident and requires no special proof that the extent of the defendant Oswald Pohl's criminal responsibility must be considered as much smaller than the extent of his work. The ordinance of the SS Main Legal Office of 1 July 1942 dealing with the competency of the Higher SS and Police Leaders as highest court authority for the members of the branch offices of the Main Office and which I submitted as part of document book Pohl, may give an indication of this. In this ordinance it is expressly ordered, "that the chiefs of the individual Main Offices are only competent as highest court authority for proceedings concerning members of their staff at the permanent headquarters of the Main Office. On the other hand and according to the express wish of the Reich Leader SS, the branch offices of the Main Office come under the jurisdiction of the respective Higher SS and Police Leaders in charge of the area in which those offices are situated. For details concerning these facts I refer to the statement of the witness Dr. Schmidt-Klevenow.

This decree of the SS Main Legal Office was evidently based on the correct idea that the supervisory powers of the highest court authority cannot exceed his local powers of command. The result of the regulations laid down by this ordinance was that commandants, concentration camp officers, and concentration camp guards came under the jurisdiction of the SS and Police court of the district in which the camp was situated and competent for the

confirmation of the sentence was the Higher SS and Police Leader as highest court authority in whose administrative district or section the camp was situated.

The limits of criminal responsibility can also be established directly from the Control Council Law No. 10.

1. The “*crimes*” which are relevant in the proceedings before these military tribunals, are enumerated in the Control Council Law No. 10, Article II, paragraph 1(a)–(d) and comprise 4 groups: (a) crimes against peace; (b) war crimes; (c) crimes against humanity; (d) membership of a criminal group or organization declared criminal by the IMT. The following elaborations are restricted to groups (b) and (c), i.e., war crimes and crimes against humanity.

2. These crimes must be committed “*intentionally*.” In this connection the following is to be taken into consideration:

a. As a guiding, and in this case also authoritative, principle *Donnedieu de Vabres* in his “*Modern Principles of International Penal Law*,” (1929) page 409 states:

“If there exists one principle of International Penal Law which is above discussion, consecrated as it is by a venerable tradition and by advantages beyond doubt, it is that of the priority of the local law.”

b. Control Council Law No. 10, Article II, paragraph 1 defines only the *outward extent* of offenses. Anglo-Saxon Law in principle also recognizes the mental aspect of the deed, the “*mens rea*” as a requisite for the punishment: “the deed alone does not constitute guilt unless the mind be likewise guilty.” (Stephen, *Criminal Law* 19th edition 1928, p. 11). But “it is impossible now to apply the maxim with regard to ‘*mens rea*’ generally to all statutes, and it is necessary to look at the object and terms of each act to see whether and how far knowledge or particular intent is the essence of the offense created,” (Archbold’s *Pleading*, 31st edition 1943, pp. 20–21). But *in each and every case* it must first be ascertained what is meant by “*mens rea*.”

c. The Control Council Law No. 10 does *not* discuss the question of “*mens rea*” in the article mentioned. For this reason alone it is indispensable to revert to the principle formulated by *Donnedieu de Vabres*. Therefore to define “*mens rea*” more clearly, the law in force at the place of the deed must be decisive, the “*loi territoriale*.”

d. “*La loi territoriale*”, the local law under which the defendant Pohl acted is *German Law*. But this in principle—if there are no special reasons (of which there are none in this case)—recognizes only *intentional* crimes.

e. This is not a requirement specified by a *National Socialist*

law, the value of which for this reason could be doubted, but by *old established international law*. Therefore it is also applicable in this case.

3. The application in each individual case must be based on the generally known *legal rules of the doctrine (Dolus)*.

The position which the defendant Oswald Pohl held in the German state carried with it, of course, the duty to intervene if he received information that crimes were being committed within his sphere of responsibility. If, however, such information did not reach him, he cannot have acted intentionally and as a consequence criminally.

On the other hand he cannot be made responsible for everything which happened as a result of the order he gave, as if this had been intentionally planned by him; here again it is possible that the defendant, when issuing the order, had not considered the evil consequences it might have, and if this were so, it is impossible to speak of intent. A similar argument applies to the appointment of executives which the defendant made. In this case, too, he can only be called guilty, if, when choosing these executive officers, head of office groups, heads of offices, nomination of camp commandants, etc., he had neglected to take the necessary care which could be expected of him. For such a supposition no actual evidence has been produced by the hearing of the evidence. On the contrary, it revealed the fact that immediately after the Inspectorate of Concentration Camps was combined with the Administrative and Economic Main Office, he proposed to the Reich Leader SS the exchange and the replacement of camp commandants in quite a number of cases.

Furthermore the hearing of the evidence did not produce any proof that the defendant Oswald Pohl neglected his obligations of supervision within his sphere, i.e., to the extent it could be expected of him. In order to arrive at a correct judgment of the attitude of the defendant, the fact must not be overlooked that he held a difficult office during a war, in which the vital foundations of his people were at stake.

C. Closing Statement for Defendant Scheide *

DR. HOFFMANN (counsel for the defendant Scheide): May it please your Honors, after my colleague, Herr Dr. Haensel, finished his declarations, I would not like to lead you at the present moment to the very dry field of trucks and motor vehicles which my client dealt with, but I believe that you have heard and that you know sufficiently about my client's activities while he testified as

* Tr. pp. 7925-7987, 19 September 1947.

a witness in his own behalf. Therefore, I do not want to read the factual part of my final plea. I would only like to read part of my final plea. I have reached the conclusion that a conviction under counts one and two of the indictment cannot be considered, I shall now deal with count four of the indictment.

Up to now we only have the case of the defendant Poppendick * who was sentenced to ten years' imprisonment under the fourth count of the indictment under Military Tribunal I. Here Military Tribunal I stated explicitly that the defendant Poppendick did have a certain knowledge about the human experiments in the concentration camps, which were the most horrible crimes. That is where the fundamental difference exists between that case and the one of the defendant Scheide, who had no knowledge whatsoever about the crimes in the concentration camps. It will have to be examined quite in detail how his case has to be judged. The International Military Tribunal in its verdict against Goering and others stated what they meant by membership in the SS as a criminal organization. The General SS, the Death Head units, and the Waffen SS are criminal organizations. However, the Reiter [Cavairy] SS and all police units with the exception of the Gestapo and the SD are not criminal organizations.

The International Military Tribunal stated: that he who after 1 September 1939 was an official member in the SS organization which in connection with the war worked on the persecution and extermination of Jews committing atrocities and crimes in the concentration camps, abuses in the administration of foreign occupied territories, the execution of the conscription of labor, and also the abuse and extermination of PW's, is guilty if the following subjective characteristics of the offense exist in his case, namely, in spite of the fact that he knew he became voluntarily a member of the organization or remained in the organization.

It will be considered as equal to the knowledge of the use for criminal purposes, if somebody, in his capacity as a member, was involved in the objective characteristics of an offense without realizing this, but if the circumstances were likely to make the purposes for which the organization was used appear as criminal, in short, if somebody was constrained to know the criminality of the organization on account of all circumstances.

In the meaning of the verdict of the International Military Tribunal anybody acted voluntarily who would have been able to take any decision without being afraid that the State would be seriously prejudiced against him as a result.

Not affected by the above stipulation is anybody who has made

* Defendant in case of United States vs. Karl Brandt, et al., vols. I and II.

himself guilty of the objective characteristic of the offense in any other way than by membership. Thus, the great number of guilty members of the SS who are in such manner still to be found out is declared to be a criminal group of persons.

The defendant Scheide had no direct knowledge of the purposes of the SS, as far as the above-mentioned objective characteristic of the offense is concerned. It must be examined, however, whether he had to know such a purpose according to the above-mentioned extension of the definition of knowledge.

We have heard a great number of witnesses here with regard to the question of presumption of knowledge of crimes according to count two and three of the indictment.

I have never made a secret of it that I think this question of presumption of knowledge, in particular about crimes in the concentration camps—as this is nearest—to be the decisive point of the trial for the defendant Scheide, represented by me, with regard to count four of the indictment. I therefore have interrogated each of the witnesses on this question. Among the witnesses interrogated there were witnesses for the prosecution and witnesses for the defense, and some of the defendants themselves have to a certain extent stated their point of view on the question of presumption of knowledge.

The following turned out to be the essential result:

Among the witnesses who gave their point of view as former inmates of a concentration camp as far as the question of presumption of knowledge is concerned, there is first of all the witness Kogon.

Kogon was an inmate of the concentration camp Buchenwald from 1937 to 1945; he is the author of the book, "Der SS Staat," [The SS State].

Answering my question whether an administrative officer of the SS within a concentration camp, for instance, had to know exactly about individual crimes, the witness stated as follows:

"An administrative officer who was employed in the camp or outside the camp in the administration office, well, that depended upon the circumstances, upon his own will. This was just like with the inmates themselves. You should be in a camp as an inmate for years and years and not bother about anything as far as you were not directly concerned yourself, and if then you were among the survivors, of course you knew only fragments and small details, more or less nothing at all, compared with the whole."

Well, Kogon speaks about an administrative officer who was employed in the camp or outside the camp in the administration. At any rate, this is somebody who was in direct contact with the con-

centration camp. The defendants who are in the dock here, in general were even further removed from these things.

At any rate, the defendant Scheide never entered any concentration camp.

In order to have to know the objective facts, he depended upon external impressions which he got. Without seeing and hearing anything that would have had to attract his attention to things, one cannot say that he must have known about the real conditions in the concentration camps.

If he did not see those conditions, he still might hear of them. In this connection it is important to mention that drive for secrecy Hitler was so particular about.

This pervaded all branches of public life, to start with. In all places, the secrecy order of 11 January 1940 was exhibited. This order decreed that secret matters should be disclosed to nobody unless it could not be avoided in the interest of official duties.

Conditions in the concentration camps were a matter to be kept most secret. Significant is the fact that no person was supposed to enter a concentration camp without permission, that the highest dignitaries of the Third Reich, as for instance, the Minister of Justice, Thierack, could not visit a concentration camp without the personal permission of Himmler; that to all extermination camps, as e.g., Auschwitz and Treblinka, a special system of concealment was applied, by way of camouflage, cordons, the plants great distance from the centers of the Reich and special selection of the guards; that the Reich Security Main Office itself declared in answer to an official question by the Reich Ministry of Justice about the fate of the Jews in the years 1942-43, that all that was nothing but lies; that nothing was allowed to leak out from the concentration camps themselves about the true conditions there through the prisoners.

To prove the above statements, I offer the following evidence:

1. That the former representative of the personal Referent of the Reich Leader SS, August Meine, declared:

"The Reich Minister of Justice did not have the right to enter a concentration camp on his own initiative. He and his officials needed express personal permission from the Reich Leader SS, because camp commanders and other office chiefs could not give the necessary permission. Therefore, the Reich Minister of Justice directed such a request to the Reich Leader SS.

"The Reich Leader SS gave the permission in an accommodating way, but at the same time he ordered by interoffice communication through the Reich Security Main Office that the shelters for Jews and other politically important places (meaning especially the area with extermination installations) should

unobtrusively be kept out of the sight of the Reich Minister of Justice and his officials. After the visit had taken place he wished to receive an immediate report that the secrecy had been kept according to instructions.

"The visit took place as arranged and the Reich Leader SS received the report as requested."

2. The former judge at a court of Appeals (Oberlandesgerichtsrat in the Reich Ministry of Justice), Dr. Rudolf Kuehn, declared:

"In 1942 or 1943, at any rate at a time when Jews were being evacuated from Berlin to the East, a man was reported for spreading the rumor that Jews were to be killed by gassing in the East. I considered this allegation to be monstrous and untrue. Nevertheless, I inquired at the Gestapo whether these allegations were based on some actual occurrences which would make the execution of proceedings seem risky. I had made the experience that such inquiries brought out facts which explained the origin of such rumors, which is important for the judgment of the matter. My inquiries received a negative reply from the office of the Secret State Police, confirming that this rumor had been invented without factual proof."

3. The former SS Judge Dr. Konrad Morgen stated with regard to the camouflaging of the extermination camps:

"The cooperation of members of the SS was therefore restricted to the commander, the physician, the driver, the exterminator, and the guards. Germans in this operation were only the commander, the physician, and the exterminator. Thus, it was again assured that secrecy was maintained not only by compulsory discretion under oath, but also by the difficulties with regard to a linguistic understanding, between the majority of those informed about the events and the German population or the German members of the SS."

4. The witness Engler, who from 1941 to 1945 was a prisoner in the concentration camp Sachsenhausen, confirms that it was impossible (1) to write letters in which the true conditions were described; (2) to approach visitors coming to the camps and to describe the conditions prevailing there. Engler says here literally: "This was possible only for one resolved to bid farewell to his life." (3) That every prisoner on being released had to sign an undertaking to the effect that he would disclose nothing of what he had seen or experienced in the concentration camp, that means that he would say nothing to any third person.

Asked whether in his opinion they did keep this undertaking, he said literally:

"Since the entire German people did not dare, or rather, the major part of the German people had not the courage to say

anything, surely those who knew that to disclose the facts would mean to them to be returned to the camp and consequently to be removed from life, could still less be expected to do so."

Another important question this witness dealt with was the difference in the treatment and conditions in the various concentration camps according to time and place. Replying to a question about this matter the witness said literally:

"My opinion is that conditions in camps which were in connection with quarries, were notably worse than, for instance, those in a camp where there was no opportunity for such a work."

Asked, whether this possibly also depended on the camp commandant, the witness stated:

"My opinion is that the treatment of the prisoners varied according to the individuality, mentality, and character of the camp commander, so that it depended on the judgment of the commander as we found out from our own experience at Sachsenhausen."

This shows that conditions were not the same in each camp so that it should have been possible to know more of one camp and less of another one.

But what could lead out from a concentration camp, were rumors. About these Hans Fritzsche, the radio commentator of the Third Reich said:

"Rumors never prove anything. But rumors may contain a grain of truth. They have often been very troublesome in the Third Reich, so that full scale campaigns against the rumors were started and it was tried to discredit the rumor-mongers."

But that was it. Not only that the truth about the concentration camps would never have been admitted in the press and the radio, but also rumors about these things were opposed in the most resolute manner so that they could never spread. Some people in Germany knew them, a great many did not. The truth was known only after the war.

In as far as it was known before, it appeared so enormous that it was generally disbelieved.

A fitting example for this is the statement of the defendant Hohberg. Hohberg stated that he had been informed that at the end of 1942 by an administration leader who was devoted to him about the extermination of the Jews. Hohberg says that he forwarded this information to about 25 trustworthy people. About the results he says:

"By some people whom I told these things, I was simply considered not normal. There was a number of people who thought

I was telling them tales. This, in spite of the fact that my information was authentic.”

So even there where the truth became known, it still remained restricted to the person in question and a few other people. The majority got to know only rumors.

The same picture is shown by the few statements we have from the highest places and which could help to disclose the truth. There are two speeches of Himmler known. These are the speeches made at Metz and at Poznan. Both speeches were secret and had been addressed to a small circle of persons only.

How strict concealment was in this case, is shown by the Poznan speech by Himmler of which the former SS Obersturmfuehrer Rudolf Gerhard Schneider, who happened to be present literally says—

JUDGE MUSMANNO: Dr. Hoffmann, was the speech at Krakow [Kharkov] pretty well known—you mention the speech at Poznan and the speech at Metz. There was a speech at Krakow [Kharkov], which seems to have been pretty well known. It appears in our document books.

DR. HOFFMANN: Well, you see, I was only thinking about these speeches, the one in Poznan and the speech in Metz. Was there a speech at Krakow [Kharkov]?

JUDGE MUSMANNO: Yes. We noticed in our document books there was such a speech.

DR. HOFFMANN: Very well, your Honor. Schneider literally said, and I quote:

“Even at a later date nothing could be undertaken by any participant because everyone, including myself, was bound to strictest secrecy even with respect to our supervisors. I had to sign a paper according to which I and my entire family would be exterminated if I were to violate the order for secrecy.”

Only the Highest SS Leaders were invited to that speech. The above-mentioned former deputy of the personnel adviser of the Reich Leader SS said literally:

“As former deputy of the personal adviser of the Reich Leader SS I declare that usually only those leaders who held higher posts at one of the Main Offices within the sphere of command of the Reich Leader SS and chief of the German Police and who held at least the rank of SS Gruppenfuehrer were invited to these so-called SS Gruppenfuehrer conferences.”

But even those who had been invited to those conferences could sometimes not make head or tail of such a speech.

The former general of the Waffen SS Steiner who had listened to part of the Poznan speech and had, among other things, heard

Himmler speaking of a march to the Urals, while the entire army was in retreat, declares verbally:

“To me, all that appeared so unreal that I was absolutely flabbergasted, nonplussed, telling myself, that this is impossible. How can one, the situation being what it is, speak of an advance towards the Urals.”

Asked, whether he would have been able to forward such a speech to the people under him, provided that he would have been allowed to do so, the witness declared literally:

“But certainly on no account, such a madness cannot be forwarded, because, if you say to a unit which is in retreat, that they have got to advance to the Urals, they surely think their commander has become quite mad.”

One may as well presume that things were not different with the Metz speech.

Even these two official speeches of Himmler were, as I have shown, not able to spread the knowledge about war crimes or crimes against humanity beyond a certain circle of persons, so that it would not be possible to say that from them there resulted necessarily a reasonable presumption for a knowledge of these crimes.

It remains to examine the official propaganda of the Third Reich in this respect. The prosecution has submitted a booklet with the title, “The Subhuman.” It also referred to some SS manuals and finally to Hitler’s book, “Mein Kampf.”

As far as Hitler’s “Mein Kampf” is concerned, the Secretary of State in the Bavarian Liberation Ministry, Dr. Camille Sachs declared literally:

“I had read the book ‘Mein Kampf’ which, unfortunately, a great many Germans had not done. Even many members of the NSDAP never read that book.”

This proves that the knowledge of this book was far from being wide-spread, as one would be led to infer from the number of printed copies.

As far as booklets are concerned of the kind of the booklet submitted by the prosecution, “The Subhuman,” the public was utterly insensitive against compilations of that sort on account of the training received through many centuries.

Hans Fritzsche, as a witness whom I quoted above, declared, when shown the booklet, “The Subhuman,” that this had been the worst kind of propaganda.

So it was, and there is no reason to assume that the effects of such propaganda in general resulted in actions, and that it led people to the conclusion that war crimes and crimes against humanity were to be perpetrated. May I point out, your Honors, the

general public did not even then abandon the laws of humanity—apart from very small exceptions—when night after night the bombs were dropped on the German cities thereby killing women and children. They were even asked to do so, so insensitive were the German people in general against bad propaganda.

The prosecution will point to the fact that the peculiar ideology of the SS should have imparted the knowledge of war crimes and crimes against humanity.

Certainly, there were SS manuals, there were the 12 commandments of an SS man, there was the engagement and marriage-instruction.

But where do they contain objective elements of a crime? The opinions and thoughts they contained were more or less violently rejected by the world around them. Nobody had the imagination to foresee what was really to happen.

Not a word was to be found in the SS manuals or in other places about the Jews to be gassed, about mass killings to be carried out in the concentration camps. If today it is said, one should have read between the lines, well, the question arises, why did the Weimar republic not exhibit a poster above the SS barracks, to read:

“Attention—Murder Incorporated No. 1.”

No, the individual SS man was not in a position to realize before the event that Himmler was capable of perpetrating crimes of the sort as have now come to light.

The truth was disclosed only after the war. Up to that time it leaked out only gradually and remained unknown to most of the people even up to the very end. In this connection even the question is of no relevance, at what date a man joined the SS.

It is also essential not to neglect but to consider the personality of each individual SS man when trying to judge him, or else testimony of the kind presented by the witness Ackermann would be disregarded. The witness Ackermann, who had been arrested by the Gestapo on various occasions beginning from 1933 and who was in a concentration camp, who was kept in concentration camps continuously from 1939 to 1945, declared as a prosecution witness. I quote:

“* * * just as it has to be proclaimed in public for once, and I feel bound to do so, that among the SS men there were not only dirty swines, but quite a number of decent people, and beyond that SS men who were our best friends.”

Quite consistently the witness Kogon, surely an unbiased witness, declared:

“The facts with regard to the question, how far the individual

SS man had the necessary knowledge and the possibility to interfere certainly have to be examined in each individual case.”

The prosecution has not submitted a single document against the defendant Scheide which shows his name. He has not been mentioned by any witness. No evidence has been submitted which would show his individual guilt.

Whether under these circumstances a conviction can be arrived at according to Control Council Law No. 10, if all Scheide can be charged with is membership in the SS, will be decided by this High Tribunal.

VII. FINAL STATEMENTS OF THE DEFENDANTS, 22 SEPTEMBER 1947

A. Final Statement of Defendant Pohl *

DEFENDANT POHL: Mr. President, your Honors, when with the end of the First World War the German people laid down its arms, it did so in the belief in the fourteen points of your President Wilson, and the hope for a just and reasonable peace.

But the peace which was dictated was the one against which President Wilson had so strongly warned. Germany was torn into two parts, and the right of self administration of the peoples was violated in the most blatant manner, which made cause for an everlasting conflict. Thus, the dictate of Versailles sealed Germany's fate. This fate was suffered by every German more from year to year. The ever-increasing misery caused passion and dissent. The community disintegrated into numerous parties which were fighting against each other. This situation forced every responsible German to adopt an attitude, this way or the other, and that applied to me, too. I joined the NSDAP [National Socialist German Labor Party]. I considered that a group of force which seemed to be called to reunite the German people and, in correspondence with its social needs, to lead it towards a future which was worth while. That was the first time that I had to deal with political problems. In the foreground there stood for millions of Germans the worry for mere survival. The securing of that was, therefore, one of the primary demands of the NSDAP, and, in comparison to that, everything else had to move into the background. This applied to the racial problem in general, and the Jewish problem in particular. I had faced both of them with indifference up to then. What I knew about it was not due to experience gathered by myself, but was gathered here and there. I examined such knowledge and extended it, through study, particularly on conceptions heard abroad, particularly those of America. I read Madison Grant and Houston Stoddard regarding the racial problem. I studied publications by Henry Ford, which appeared in 1924 to 1926 in his newspaper, "The Dearborn Independent," and which appeared in book form with the title, "The International Jew," and was widely read in Germany. This attitude of this great practical American, who was not anti-Semitic, impressed me particularly at that time and strengthened my belief that the racial

* Tr. pp. 8011-8018.

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and Jewish question was not mere theory. Based on this knowledge, and in view of the ever increasing symptoms in Germany, I gained the conviction that the influence of Jewry was not properly related to the portion of the population and that, therefore, some realization had to be obtained. I considered such possible through proper and sufficient legislation. This exhausted my interest in the Jewish question. For that reason I never participated in measures of force against the Jews, nor approved of them, nor supported them knowingly. I was never in any way a participant in legislative measures. In the uproar of war I still disapproved of the measures adopted by Himmler's and Hitler's orders regarding the destruction of the Jews, and neither deliberately demanded them nor supported them. As far as the extent of the extermination is concerned, I could not form a picture at that time. I did not receive reports because I was not a participant. Details only became known to me here in Nuernberg from documents. Up to the time when Himmler made his speech in Poznan on 4 October 1943, I had no knowledge of the plan, nor was I taken into confidence after this date. I had not participated in conferences about it, and I was not a member of the circle of those who took part. In peacetime, in such a situation, I could have surrendered my office, but war deprived me of freedom of action and decision. The war had reached a dangerous climax. It became a fight for survival of the German people. The last capable men and youngsters were at the front. Women and girls worked in the armament factories at home. In such a position, my resignation would have been treason against Germany. For that reason I, in my position, could not even so much as consider such a thought.

Here I am indicted as the chief of the WVHA [Economic and Administration Main Office]. The organization of this office of the Reich, from its smallest stages and subject to the greatest difficulties, was my life's work. In those last ten years I devoted my entire strength and time to it. It is my work. My activity as the administrative chief was an administrative and economic one, not a military and not a police executive activity. The aim of this work was the maintenance of man and substance for the purposes of the struggle and the work—but not the destruction.

Before this Tribunal the structure and significance of the WVHA has been much discussed, without that aim having been achieved, much to my regret, that a picture was drawn which was correct in every part. A last cause for this lack of success is, no doubt, the chart which was hanging on the wall, and it was not suitable to supply proof pro or contra. Yes, it has my signature because I assumed that the chart was merely to show the Tribunal my field of activity in its most simple form, but not to serve the

prosecution as a trial tactical means. The WVHA consisted of three heterogenous parts which had nothing to do with each other. First, the WVHA as ministerial level for all matters of the administration for troops, with the office groups A, B, and C, corresponding to the army administrative department. Secondly, the economic enterprises which were under my personal supervision which, according to their legal basis, were not SS industries but industries of the Reich. They were contained in [office] group W. Third, the Inspectorate of Concentration Camps, which after 3 March 1942 came under my personal, although temporary, supervision, the Staff Gluecks, which was office group D.

For practical reasons I gave the WVHA that external appearance which is customary for ministerial offices, without consideration whether that corresponded to the nature of its individual sections. Thus, for the entirety of the economic enterprises I chose the fiscal description of Amtsgruppe or, for its chiefs, Amt chiefs, although these official designations are not customary in enterprises conducted on a business-like basis. When, in March 1942, I was given the task of directing the labor allocation of detainees on a ministerial level, I came into close contact with the system of concentration camps. For a long time it had the relentless face in every detail which it was given by its creator, Heydrich, and its organizer and drillmaster, Eicke, in the ten years of their activities. I faced a completely rigid organization. Only by removal of the entire personnel which had worked there for years and all its guards, and a radical reform of the state police methods, could it have been basically changed. The situation of the war, unfortunately, made that impossible.

As far as I was able, I fought against having to take over the direction of labor allocation because my time and my strength had been fully occupied through my proper and far reaching tasks. My resistance was taken notice of by Himmler in as far as he limited my activities and responsibilities until the end of the war. However, the military events of the summer of 1944 caused him further to give an order as early as 16 July 1944, instructing that the concentration camps in the "A" case—that is, in the event of an approaching enemy—were to be handed over to the regional Higher SS and Police Leaders. All evacuation measures and orders, which finally led to the conditions which were found by the armies of the Allies and which was ascertained by the commission of the United States Congress, originated, therefore, from Hitler, Himmler, or the Higher SS and Police Leaders, and not from me. I had not given one single order to that effect. After 1942 there were one or two annual visits to the larger concentration camps where armament affairs took place. During these official duty journeys

which usually lasted only for hours, but never longer than one day, I neither noticed atrocities, nor did I become a witness to exterminations. The events in concentration camps, however, were soon overshadowed by the terror of death which came over the whole German nation. However, it neither gave pardon to the worker in the factories nor to the peaceful peasant in his field. The air war of the Allies had made the whole of Germany a battlefield. One town after the other collapsed under the hell of bombs, of phosphorous of the Allied air fleets under which hundreds of thousands of German children, mothers, and men died in the flames. Of the inhabitants of the town of Dresden, where refugees from the East who had fled from the Russians were crowded together in small territories, in one night 200,000 became victims of that horrible fate. These horrors and atrocities made it impossible for any living beings to think of the present and the surroundings and tie them up with the fate of the eight to ten millions of fathers and brothers who were fighting a terrible fight at the front. These were standing in the center, but not the 500,000 detainees in concentration camps. After distance and time have clarified all events and when passion has ceased and when hatred and revenge have stilled their hunger, then these many millions of decent Germans who have sacrificed their lives for their Fatherland will not be denied their share of sympathy which today is being attributed to the victims of concentration camps, although a large number of them owe their fate not to political, racial, or religious characteristics but their criminal past.

In spite of the limitations of my tasks to the ministerial direction of labor allocation I used my free initiative and human considerations to make honest efforts to direct conditions in concentration camps into decent channels. My defense counsel has dealt with details of that. I do not regret these voluntary efforts, even today, even considering the deductions made by the prosecution regarding my participation. What I do regret honestly, however, is that my efforts have been denied an appropriate success. And the reasons for that were no fault of mine, but they were, on the one side, the impossibility for me to supervise this entire organization from a ministerial level in Berlin personally, and, on the other hand, they were due to the mess in the traffic and supply situation which was caused by the destructive air attacks of the Allies. Wherever I met deficiencies I fought them energetically. This includes—after initial approval—the later disapproval of the activities of SS Judge Dr. Morgen when I realized that, in spite of the highest authority and the greatest support from highest sources, he did not succeed in introducing rapid and exemplary justice in the extermination of the pest of atrocities

in the concentration camps. In his place, the institution of a special court was welcomed by me and thoroughly supported. Success of my efforts, and the fact that after 1942 an improvement was noted in concentration camps, has been confirmed by the evidence in this trial. I had no share whatsoever in the measures adopted by the Gestapo, nor did the WVHA. At no time and in no case did I take steps to increase the number of detainees in the interest of labor allocation. Not one single prisoner was brought to a concentration camp by myself or a member of the WVHA. On the other hand, I and my collaborators in the W office opened the way to freedom to many a prisoner. Usually this was done against the opposition of the RSHA (Reich Security Main Office) and in spite of the sabotage of camp commandants. This is a fact which cannot be overlooked even if it is nothing other than the symptom of an attitude. If that mere attitude had been adopted by the responsible men in the RSHA, Gestapo, and the Inspectorate of Concentration Camps before 1942, then concentration camps would never have become the hateful institutions which the world has condemned them to be, and the German people with it. It will be inexplicable to anyone who knew the actual conditions in the years 1933 to 1945 that the administrative center, the WVHA, should be held responsible for the measures of the Gestapo and the organizers of that system, although the WVHA had only been given those tasks during the last two years of the war, the carrying out of which had been set in motion during ten years of independent activity on the part of the Inspectorate of Concentration Camps. As chief of the WVHA I was not only the designer, I was also its motor. I alone had charge of it. It was my place of work, there fate had put me, and which imposed upon me more burdens than honors. Therefore, particularly during the war, I only left this place of work for a few short hours of rest or on official directions. For that reason I used no deputy. The fellow defendants here were my subordinates. They were subject to my orders and had to carry them out. But I never gave one fellow defendant or any other of my fellow workers an order which would have meant the carrying out of a crime. My considerable spheres of activities forced me to burden my collaborators with a certain amount of responsibility within their individual spheres. This responsibility was not an independent or a genuine one. It ended up with me and I adopted it towards the outside, as far as that organization is concerned. And that corresponds to the rules of the leadership [Fuehrer] principle. This does not mean infallibility. It is a principle that human beings are to be led to the achievement of the ends of the state. In the case of soldiers, complete obedience cannot be separated from this. I used to recognize this principle earlier

because I believed that it would lead to a final state and to a final form of state subject to a gradual development, and that it was right and essential. I cannot, therefore, deny today that this was so, and I can, therefore, not construct individual responsibility for the individuals working under me. As far as my own entire responsibility is concerned, not even a Control Council Law nor any human judge can make me free—and I do not want it, because I consider this to be a matter of conscience and of loyalty which I owe to these men.

I shall bear this responsibility also for the defendant Dr. Hohberg, as far as I called upon his services beyond the duties which he was bound to carry out due to his contract. For more than the time of one human life, my life took place in this sphere of a soldier. Orders and obedience, instruction and coercion, were its laws. There have been controversies between them and my thoughts and feelings, and sometimes also with my conscience. My life was never the function of a Party member, although I was a high SS leader and an old National Socialist. It was devoted only to my country, which stood above the Party, and the freedom and welfare of which was a dream supported by my ideals. The picture of that life, even today, is known to everyone who knows me. There was duty and there was work, for Germany. It was left to the hatred of the enemy to use unscrupulous slander and lies against me. Against that I defend myself because even the worst punishment is better than lies about one's character. As a German in Germany I have worked according to German laws and for Germany. I did not consider these laws to be incorrect under international law. For that reason I cannot recognize my being sentenced on the basis of a law created *ad hoc* by the victor to whom I am exposed, defenseless, as a vanquished person—but I voluntarily confess to my deeds. Even when examining my conscience most thoroughly I am not conscious of having committed crimes. Every era and its events are more confounding and afflicting at the present than seen from a distance of years and decades, particularly if they are spent in such a fortunate country as yours, the fields of which have never been devastated by the horrible storms of two World Wars. The greatest crime of all times has always been treason committed against one's own nation during war. For that reason those clever intellectuals, those political speculators, who have helped the regime into the saddle, first received honors and titles and then let it down—without conscience and character. They are the greatest criminals against Germany, and I will not be one of them. It was my aim to walk through my life on this earth in a decent and straightforward manner, and even today I still believe that everything I did I can justify before my con-

science and my God. Whatever I did, I did in the holy will and the pure belief that I was serving my country and helping it to victory in its struggle for survival. It is to that country I felt I owed unconditional faith, and I kept that faith toward my Germany. I shall not break that faith of mine to my unfortunate Fatherland—not even in death.

B. Final Statement of Defendant Frank *

DEFENDANT FRANK: Your Honors: When I joined the SS in 1932 as a simple SS man, I did so in the hope that the National Socialist movement could save Germany from its political disintegration and lead it toward an era of economic well-being. At that time I had no idea that there would one day be a second World War in Germany and an extermination of the Jewish race. From the first day of my main professional employment, I was specializing in administrative work; and I had considerable influence regarding the creation of the SS troop administration, following the example of army administration. In this special sphere I did my duty, undeterred by political events, right up to the limits of my capabilities.

I considered it my task to first work in the small and young Special Purpose Troop [Verfügungstruppe], the later Waffen SS, and to create an SS administration which followed the best traditions of the German Army [administration]. I was interested in clarity and cleanliness and the exclusion of any type of bureaucracy. I was interested in training troop administrative officers who could meet those requirements. This is corroborated by my consequent actions which took me from the SS troops through the quartermaster's office of the Waffen SS to the administration of the German Army administrative offices. My work and all my thoughts were filled by this task to such an extent that politics moved altogether into the background. I regretted it much at the time that the WVHA of the SS, which to my view would have been nothing but the administrative offices of the SS, was in March 1942 connected by Himmler with the system of concentration camps by the use of the person of Pohl.

Matters appertaining to concentration camps, which really lay in a completely different sphere, remained a strange matter for this administrative department. The task of supplying concentration camps with funds brought me into the WVHA after the inclusion of the concentration camps but didn't bring me into any closer contact with them. The question of supplying these funds, which was a task of [office] group A, cannot be considered as

* Tr. pp. 8019-8021.

criminal but rather to the contrary, a restraint regarding the funds necessary for the maintenance of prisoners. But even this allocation of funds was dispensed with when the war progressed. I never had an insight into the conditions in the camps through this task, however.

When in the autumn of 1942 in my capacity of senior [office] group chief I was given the task of securing and surrendering the personal property taken from prisoners or left behind by prisoners, which took place within the Action Reinhardt, the conflicts of conscience occasioned thereby caused me to leave my position in the WVHA at the very next opportunity which arose. I did succeed in doing so when I was nominated chief in the administration of the regular police. This was not a promotion in rank such as the prosecution claims in its plea. That one year later I became the chief of the army administration was something which I couldn't even guess at the time.

Let me emphasize in this connection that my conflict of conscience was not connected with the fact that human beings were murdered, because that was not something of which I could be aware at the time; but that was due to the fact that measures were adopted by other authorities so that prisoners or their heirs were deprived of property and that I was now concerned with the dealings connected with this unpleasant affair. It is a fortunate circumstance that this collaboration of mine, so far as time and extent are concerned, was so negligible that it represented only a very minor portion of my entire activities in the WVHA and that, as far as I am concerned, it came to an end before Himmler's speech in Poznan gave me an insight into the ghastly occurrences which Himmler together with Hitler had brought about and which were the exact opposite of the idealistic world philosophy preached by him to us.

The most convincing proof that I had nothing to do with any criminal events in concentration camps can be found by this high Tribunal in the fact that considering my high rank in the SS and in spite of repeated demands, by pictures, press, and radio, not one of the tens of thousands of former prisoners called upon to do so in the present trial gave evidence against me; but the affidavits submitted by my counsel to this high Tribunal show that in the cases where I had an opportunity to decide whether the mad orders of the leaders should be carried out or opposed, I did the latter. On one occasion the destruction ordered by Hitler of important goods was prevented by me; thus, I saved those essential articles for the German people. Secondly, on my own initiative and without examining the question of authority, I made a quick decision and prevented the march ordered by Himmler of five thou-

sand prisoners from the branch camps of Dachau to Tyrol. Those five thousand unfortunate human beings, insufficiently clothed and fed, were ready to march across the snowed-in mountain ridge of the Alps. It would have been a death march with absolute certainty.

The question will arise of why I did not leave the SS after the speech at Poznan. In that connection, I should like to say this. At the time of the speech of Poznan and even later, until the end of the war, I was working in the police and in the army on a matter which did not represent any kind of violation of the laws of humanity and humane conduct of the war. Himmler in his speech at Poznan unmistakably and cynically declared that he would exterminate anyone who was unfaithful even in thought. Every one of the Gruppen and Obergruppenfuehrer [majors and lieutenant generals] present knew that this was not just a figure of speech. It could not reasonably be expected of me that I would sacrifice my life and that of my family at a time when I was at a distance from all criminal events and at a time when my resignation would not have changed matters in the least. Both of the two cases which I have mentioned above proved that I was not discouraged nor passive and did not let matters take their course when I was confronted with an immoral and criminal event.

In no single case am I conscious of having committed a crime against humanity or a war crime.

C. Final Statement of Defendant Fanslau *

DEFENDANT FANSLAU: May it please your Honors, in July 1931, at the time of the greatest economic chaos in Germany and of the greatest unemployment, I, at the age of 22, joined the NSDAP and the SS. Up to that time I was completely outside any political activity. The NSDAP was the second strongest party in Germany. I, basing my opinion on the propaganda of the time, was convinced that this party would succeed in carrying Germany out of her economic chaos. As an idealist, full of belief, I became a National Socialist. The SS was an official party organization, an official party administration and organization exactly like the Reichsbanner, which was a party organization of the Socialist party of Germany or the Rotfrontkaempferbund, which was a party organization of the Communist party of Germany. At no time could I have realized or even suspected that the SS would become a criminal organization. As a matter of fact, in order to show that he had no criminal record, every member had to show

* Tr. pp. 8022-8023.

an excerpt of his penal record and a police character reference before he was able to join the SS. None of my superiors ever ordered me to commit a punishable deed, nor did I demand that any of my subordinates commit any punishable deeds.

Unfortunately, crimes against humanity and crimes against the rights of humanity occurred. I cannot defend these crimes, nor do I wish to defend them here. However, there is a crime which so far has not been mentioned and which I should like to refer to now. Due to the fact that Himmler abused small groups and individual human beings and persons of the SS for his criminal aims and due to the fact that he gave the SS uniform to these people, he polluted the honor of the entire SS and the 300,000 fallen comrades of ours.

From 1938 on I was a member and an officer of the SS Special Task Group [Verfuegungstruppe] and later of the Waffen SS. In both divisions to which I was assigned to western and eastern front duties, not one single case occurred where members of the division violated the Geneva Convention or the Hague Regulations of Land Warfare. As many of those members who participated in my courses at the administrative school testified, that in my final speeches I repeatedly admonished the young administrative officers to adhere to honor, chivalry, and self-discipline. Those, indeed, are not motives which one recommends to members of a criminal organization as a guidance in their future life. In my activity as an administrative officer I never was able to see any criminal or punishable activities. Had I had the same activity in the army, the air force, or the navy administration, then I am quite sure that I would not be sitting here today as a defendant before this Tribunal. I have a clean conscience; and I trust in the sense of justice of this high Tribunal.

D. Final Statement of Defendant Hans Loerner *

DEFENDANT HANS LOERNER: May it please your Honors, duty and work have been my motto since my youth, for my entire life to come. After my difficult and fatiguing economic struggle, I believed that the National Socialist movement would give new hope to the German people and would help them to become united and to work and to earn their bread. That is the reason why I joined the Party and the SS and at the same time took over a field in the administration of the SS which I would be able to administer and it was my aim to perform this task well. I did not join in any

* Tr. pp. 8024-8025.

political activity. Race persecution was far from me, and I never did enrich myself through the National Socialists.

Up to the establishment of the WVHA I had in my position no contact whatsoever with the concentration camps. As I was dealing with the open war budget of the SS in the spring of 1942 in the WVHA, I did not have the right nor the duty to deal with income and expenses in detail as those agencies dealt with them which handled these incomes and expenses. My activity gave me no insight whatsoever into the concentration camps, nor did it permit me to have any knowledge about the cruelties committed in the concentration camps. The letter signed by me and addressed to the court of audits concerning the concentration camp of Stutthof dealt only with the budgetary compensating of an amount spent between two Reich treasuries. No human being could possibly consider this a punishable deed.

I never heard Himmler's speeches of Posen, Krakow [Kharkov], or Metz, nor did I read them. I had at my disposal no means of obtaining information which would have informed me better than any other German citizen. I never had any way of realizing that human beings were being tortured to death and murdered in the concentration camps nor that they had to work under humiliating circumstances. The assertion of the prosecution also in their final speech that I must know about the Action Reinhardt is incorrect, as can be seen from the introduction of evidence. Hauptsturmfuehrer Melmer of Hauptabteilung [Main Section] A II/3 was never subordinated to me.

I have seriously examined my conscience and I cannot find anything which makes me coresponsible for any guilt of the crimes which were committed.

E. Final Statement of Defendant Vogt *

DEFENDANT VOGT: Mr. President, your Honors, in his written, final plea my defense counsel defined his attitude regarding the counts of the indictment raised against me by the prosecution; and he has dealt with them in factual and legal respects, rebutting them exhaustively. The loyal conduct of this trial so far carried out by this Tribunal gives me the hope that the plea submitted by my defense counsel will find its appreciation by the Tribunal. I myself consider that I am free of any guilt, although the prosecution has tried again and again to charge me with the commission of war crimes and crimes against humanity. Even at the end of the submission of evidence, which lasted for months, I can

* Tr. pp. 8025-8026.

still not recognize under which counts of the indictment I was criminally responsible.

My membership in the WVHA on its own can hardly be considered a crime if you consider my professional activities carried out in that office where I acted as an accountant. The prosecution has tried repeatedly to undermine my credibility before this Tribunal. Even if appearances were against me now and then, I still believe that I always succeeded in completely clearing up these misunderstandings. I wish to declare today at the end of this trial before you, Mr. President, and you, your Honors, that I have spoken the pure truth with regard to my brief inclusion in the affairs of the Action Reinhardt into which I was caught up without being forewarned. With the knowledge which I have gained on the basis of the evidence during this trial, I have become aware of the fact that at that time I was misused by persons who did have knowledge of the criminal action and who used me as a willing tool. Please believe these words of mine and do justice to me.

My joining the Waffen SS took place for purely professional reasons and had nothing to do with the criminal aims of the SS. I beg you to appreciate that my membership in the SS has had to be paid for considerably by now. Let me draw your attention to the fact that I have lived through two years of imprisonment, one year of which was strict solitary confinement with all its physical and mental sufferings. I have lost my existence and my entire savings. The Russian occupational powers have deprived me of all my furniture and clothes; and my wife is forced in her old days to earn her living by working with her hands for strange people. I have nothing left but my honor and my body. You, your Honors, have the right to pass a decision on both. Please make your decision according to law and the legal situation; and if you make your decision on that basis, I believe that your judgment can only be to acquit me of guilt, crimes, and punishment.

F. Final Statement of Georg Loerner *

DEFENDANT GEORG LOERNER: Mr. President, your Honors, all of us those who find ourselves in the dock today have been charged with the most horrible crimes which have been committed during Hitler's regime. As my defense counsel said in his opening speech, the one-sided character of the documents submitted by the prosecution has had to cause the impression that my entire thoughts centered around nothing but concentration camps. This subject was the least of all things I was concerned with during my work.

* Tr. pp. 8026-8027.

During the entire time when I was a member of the SS administration, it was my chief task to take care of supplying troops with clothing and food. This task occupied my entire time, particularly during the war. If this task had included the obtaining of clothes for the inmates of concentration camps, then this was the outcome of an essential centralization. I did my utmost to comply with the situation as far as the difficult raw material situation permitted. I never had anything to do with food supplies for prisoners. As far as the economic enterprises were concerned, they did not bring me into contact with concentration camps either because in [office] group W I was in fact nothing but the much-discussed "dummy." Finally, as far as the so-called deputizing for Pohl as a main chief of office is concerned, that, I think, has been sufficiently clarified by the evidence. I never had the task of supervising the concentration camps; and the horrible crimes committed in them and in the extermination camps became known to me only after the collapse. I neither heard Himmler's speeches given at Poznan, Krakow [Kharkov], and Metz nor read them. It is with horror that I turn away from the perpetrators of these crimes; and I am filled with shame to hear that members of the SS not only soiled themselves but the entire organization.

As far as my true actions are concerned, I stand by them, just as I never refused to assume responsibilities which my activities in the WVHA brought to me. I believe that the high Tribunal will examine my case thoroughly and come to the truth and to just results in its findings. But we are here concerned not only with just sentences against us, the individuals; we are concerned also with the creation of a new international law which must form the basis for a lasting peace upon this earth, which humanity is longing for so much and which seems to be so far distant today.

I should like to end by using this opportunity to thank my defense counsel, Dr. Haensel, for his excellent conduct of my defense.

G. Final Statement of Defendant Tschentscher *

DEFENDANT TSCHENTSCHER: If in this present moment and in this place I look back upon my life, I realize that all the efforts and all the work I have done so far were in vain. I was for National Socialism and for the SS because I believed that the high ideals of them which were always placed before our eyes were real, true, and good. It was thus that I believed; that I served;

* Tr. pp. 8027-8028.

and that I obeyed. Even when my homeland had lost the war, I did not realize that the National Socialists' ideology was bad and criminal. It was only this trial which gave me full clarity to the effect that this system gave an uncontrollable power of command to a small number of people and that these people preached ideals, indeed, but acted badly and criminally.

It was thus that I also became involved in this trial, and now my life and work as a soldier and administrative official are being examined by this Tribunal. In this very difficult position I am given special strength by realizing that I personally never did anything which was considered to be a crime; and I know very well what can be considered a crime. Here in this Tribunal under oath, false testimony was given against me. I believe and hope, however, that God will not permit that this false testimony will hinder this Tribunal to pass a just sentence in my case. I have nothing further to add.

H. Final Statement of Defendant Scheide ¹

DEFENDANT SCHEIDE: Your Honor, I have obeyed an order which took me from the combat troops to the Economic and Administrative Main Office, the WVHA. It was not my view that my obedience and fulfillment of my duty represented a war crime, or a crime against humanity. I personally have never done any harm to anybody, nor committed a crime against humanity, or a war crime.

I was a member of the SS, and I considered my membership to be a service to my people and my Fatherland. I know today that my faith and my willingness to perform such service were misused. I rely upon a just sentence which will give me a possibility to place me within a democratic state. I think that with some leniency and understanding indefinite good things may be achieved much more so than with hatred and retaliation.

I. Final Statement of Defendant Kiefer ²

DEFENDANT KIEFER: Mr. President and your Honors, I have nothing to add to the deliberations of my defense counsel. On the witness stand I have testified to my best knowledge and belief, have spoken the truth, and there was no need for me to change the testimony of any kind, if I would have been given another opportunity to speak up in rebuttal. My work in office group C was never of a nature such as described by the prosecution in its

¹ Tr. p. 8029.

² Tr. pp. 8029-8080.

final plea. Without going into detail of these charges once more, I would nevertheless like to express clearly that I would have had no reason to deny that I made drawings for a hospital building in a concentration camp, if this had been one of my tasks. If in this point, appearances are against me, then I am ready to assume responsibility for whatever could have happened in my department, even if I had never had any knowledge of it. Even today I would, without delay or hesitation use my professional experience in the creation of institutions for the sick, no matter what social or political group of people are concerned. And the poorer or more suffering one of those groups might be, the more I would consider my professional work which would be essential for the creation of an institution for the alleviation of human suffering to be my duty.

During my entire life I have not committed any action which could be objected to from a legal or moral point of view. The fact that I was working in office group C does not change these facts. I never came into contact with matters which were stated during the course of this trial here before this Tribunal; therefore, I had no cause to consider myself to be a member of an authority the activity of which was trying to serve criminal ends.

With this knowledge I am looking forward to the finding of this high Tribunal in peace of mind of one who knows that he is free of guilt.

J. Final Statement of Defendant Eirenschmalz *

DEFENDANT EIRENSCHMALZ: May it please your Honors, during my examination I tried to give you a description of my professional, political, and SS career in such a way that this Tribunal could understand and draw the necessary deductions. However, I am not quite clear about the fact whether I realized and succeeded in doing this clearly. Due to the construction of technical terms and due to the variety and constant change of the organization it was very difficult to understand my arguments. The difficulties of translation and the construction of technical terms also contributed to this. That is why I would appreciate it if this Tribunal would give a thorough examination of both the final plea of my defense counsel and also my rebuttal documents.

My honorable parents at all times taught me decency, honesty, and humaneness. This for me was my guidance and my life. These high ideals were also used by me in the education of my children at all times. During my time I always kept to the only right and

* Tr. p. 8081.

correct way, and I always helped any human being who was in trouble as far as this was within my power.

During the long months of my arrest and during the entire period of my trial I thought about it quite a bit. I thought about whether I had deviated from the right track. After due examination I dare say on the basis of my humanitarian understanding that I do not feel guilty. It is thus that I am looking forward to the verdict, trusting in true justice.

K. Final Statement of Defendant Sommer *

DEFENDANT SOMMER: Your Honors, the prosecution in its final statement, as well as the indictment and its opening speech attributed a significance to my position and activities in the department D II which it does not in any way deserve. The prosecution has far departed from the correct conception as given to me during the preliminary interrogations. Whereas the indictment retroactively promoted me Sturmbannfuehrer and deputy department chief, in the final speech it was actually said that I had been the basis of the entire labor allocation program. It was asserted that I had detailed prisoners to penal companies, and that I had been the one who had made the selection of prisoners, labor allocations on one side, extermination on the other. The fact is that during my entire activity in department D II, I did not as much as send one single prisoner anywhere since I simply did not have the power to do so, and it is a further fact that I had nothing whatever to do with the selection of prisoners in concentration camps.

My task in connection with the watch repair shop in the concentration camp of Sachsenhausen was limited merely to the supervisory duties. With regard to the assertion of the prosecution that watches coming from the Action Reinhardt had been repaired by me, I should like to state that watches were repaired before I had supervision of the workshops, and that watches were further repaired at a time when the supervision had already been taken away from me. The assertion of the prosecution that no SS man could be found today who knew anything and who would talk cannot be applied to me. The prosecution would never have learned that I ever entered a concentration camp, it would never have heard of my supervision over the watch repair shop; and it would have never heard anything of the information from Gruppenfuehrer Gluecks to me in June 1943 if I had not spoken about all this frankly and openly myself. Just as I did not in any way protect myself I would have had no cause to cover one of my

* Tr. pp. 8031-8033.

fellow defendants by telling untruths. But I cannot, just to please the prosecution, say something which to my knowledge is not true, or say something which I do not even know.

I cannot be accused that responsibility applicable to me was pushed on to dead people by me. The responsible people for concentration camp prisoners are all alive with one exception of Gruppenfuehrer Gluecks. In particular the department chiefs of D II are alive.

My defense counsel has submitted to this Tribunal statements made by these men in affidavit form. They have confirmed my representations regarding my activities and responsibilities in department D II in their entirety. These men could have had an opportunity to speak here in Nuernberg, as I know well today, if I had passed my responsibility on to them, if this had been the case.

With regard to the assertion of the prosecution that the defendants here had all been old members of the NSDAP I would like to draw your attention to my affidavit and to my testimony under oath on the witness stand that I have never been a member of the Party. Not one of the crimes that have been charged here has been committed after an order or instruction given by me. I have never been conscious of a dishonest or criminal act, and with the one exception of the liquidation of Hungarian Jews in Auschwitz in the summer of 1944, I have never, during the entire time when I acted in department D II, heard of crimes committed in a concentration camp.

If the prosecution believes that monthly statistics would have shown to me the disappearance of human beings, then this is in contradiction to the actual evidence. The statistics show a monthly increase in the number of prisoners, not a decrease. Apart from this I should like to concur with the statements of my defense counsel; and my defense counsel, Dr. Belzer, I should like to thank for his endless and untiring efforts in my behalf.

L. Final Statement of Defendant Pook *

DEFENDANT POOK: May it please your Honors, I would only like to add a few words to the arguments of my counsel. I was not a member of the WVHA for many years, but it was only toward the end of 1943 that I was transferred to the WVHA by military order as a dentist. Even during my membership in the WVHA I was absolutely unknown to the main office chief and to most of his collaborators. I was not an office chief [Amtschef]

* Tr. pp. 8033-8035.

nor did I have any authority of any kind in the dental field. Neither did I work on economic matters, nor in the administration of concentration camps. I was transferred by military order from the dental medical office of the Operational Main Office, namely office XIV, to the WVHA. What I did there in my function as a dentist and what I didn't do; what I knew and what I didn't know; what I was responsible for and what I was not responsible for; what the authorities were which I had and which I did not have; that I believe has been put clearly to this Tribunal. First of all it has been clarified that I was a dentist and nothing but a dentist, and one cannot charge me with having been closely connected with the concentration camp system. I would like to repeat one thing explicitly, that I never deviated from the old medical principle to help at all times and never to harm; and also, that it is absolutely uncorrect and unjust to possibly charge me with cruel treatment of the concentration camp inmates in the dental field or any other point of view, and consider me criminal in any way.

As far as removal of dental gold is concerned, I want to stress the fact that various city crematories in Germany, before cremating the bodies, on principle, demand the removal of all precious metals, including metal gold. The removal of dental gold from deceased concentration camp inmates was nothing but an administrative matter due to an order by Himmler dated 1940 and was not a matter of the dental health service.

During the entire period, after my transfer to the WVHA, which was rather short, as a dentist I had no possibility whatsoever to interfere in those administrative matters, nor did that concern any dentist, because a dentist only had to deal with treating inmates who were still alive.

The prosecution failed to introduce one single document which contains my name, and that could bring me into connection with the removal of dental gold from the deceased inmates or with the Reinhardt Action.

I was a member of the Reiter SS [Cavalry SS], and it was toward the end of 1940 that I was conscripted into the Waffen SS by a military conscription order, and personally I never did participate in any criminal deeds nor did I know of any criminal activities for which I could possibly be held responsible because above all no one could possibly charge me with having been in a position to stop certain crimes and with having had to stop certain crimes.

In the course of this trial it has been shown that in all my testimonies and in all points and in all details I only told the truth. I feel free of all guilt before God and my conscience, and I beg this Tribunal to acquit me of all guilt and punishment.

M. Final Statement of Defendant Hohberg *

DEFENDANT HOHBERG: Your Honors, permit me to add something to the plea put forward by my defense counsel and draw your attention to some points which appear important to me.

1. The evidence has shown that the DWB Konzern was definitely transformed into a Reich combine only in March 1943, when the capital was increased. Up to that time the DWB Konzern had been a party combine administered by SS leaders. This transformation, unnoticed in its consequences, into an enterprise of the Reich, and the elimination of the financial hopes and economic power plans of the SS are considered by me as an exclusive merit of mine. I therefore did not see to it that the DWB Konzern produced funds for the SS, but saw to it that the SS lost power over the funds of the DWB Konzern. This is the very opposite of what the prosecution has asserted.

2. In its final plea, the prosecution, lacking the knowledge of legal rules and regulations appertaining to Reich combines, adopted the view that this transformation of an SS enterprise to the German Reich was entirely irrelevant; the Reich ministries were just as criminal as the SS. The IMT, it is true, passed a different finding, and the serious consequences which arise from a transfer of an SS enterprise to the Reich have been illustrated by my defense counsel. But apart from this I must say here that I myself have never met anyone who might have pointed out to me: When opposing the National Socialist State, you must not tackle this task first, but the other; compared with other more important tasks the crushing of power of the SS has only a secondary significance. It is easy to talk about these things afterwards. It is still my view that my work was not only as dangerous as, but even more valuable than if, for instance, I had distributed anti-National Socialist pamphlets. If I had done the latter, then, the prosecution, no doubt, would not have introduced me as a defendant into this defaming trial. In reality it was less important what was done in order to oppose National Socialism but that one fulfilled any task of that nature at all. It remains incomprehensible to me that the prosecution expected from me the fulfillment of tasks, for instance, involving the lot of the prisoners, which, due to lack of professional possibilities, could not be fulfilled by me.

3. It is a peculiarity of this trial that the prosecution is partly using the same arguments in order to establish close connections with the WVHA which were used by the SS at the time; but the SS used them without success trying to get power over me at the time. It will probably be a unique case that several SS leaders,

* Tr. pp. 8085-8089.

among them two who are still free today, were interested in the negative progress of my fate, and used affidavits which proved that they made an official agreement which would implicate me in Nuernberg. They are deliberate, untrue representations of the facts. For instance, that the Reich Ministry of Economics and not the SS had, in 1943, forced the end of my activities as an accountant was greeted with pleasure by the prosecution. A statement of Pohl's, introduced towards the end, that the very opposite was the case, is intentionally kept out by the prosecution. This says explicitly that my transfer to the troops corresponded to an old scheme, and that no other reasons existed for my leaving my position as an accountant. Something similar applies to testimonies given under oath during the trial which were deliberate untruths told by an SS leader to the effect that I had been a superior to the employees of the DWB. The exact contrary stated by Chief Pohl and all other available non-SS employees of the DWB was unfortunately not recognized and appreciated by the prosecution.

4. There is one thing that the prosecution cannot accuse me of, and that is, that at any time I had had any sympathies for National Socialism or the SS, formally or factually. Every other man who had been working against the Party would no doubt have been given the benefit of a certain amount of camouflage by the prosecution. Yet I am asked to use a form of expression in my written statements which would show my opposition to the SS in all clarity. They asked me as a natural consequence of this to subject myself to the risks of prosecution and arrest. They asked me for more than they would ask from themselves under similar circumstances. The fact that with much luck I escaped the fate of extermination by the SS appears a sort of guilt in the eyes of the prosecution.

5. The tragedy of my case is contained in the fact that the aim not achieved by the SS at the time has now been achieved with the assistance of the American prosecutors in any case, no matter whether I am condemned or not. Whoever has faced a military tribunal in Nuernberg is a branded man in Germany, and that applies particularly to my profession.

6. Up to now I had been convinced that I had made a more than inconsiderable contribution to the combatting of National Socialist power. That was no treason against Germany. After I had heard about Auschwitz, it was my natural duty as a responsible German. My contribution consisted in opposing the plans of the SS regarding an economic enterprise owned by the SS. My contribution furthermore consists in the information of important anti-Fascist circles regarding the events at Auschwitz. I raised a warning voice to the threatened anti-church propaganda of the Nordland Pub-

lishing firm. I warned against the danger of further measures to be introduced by Himmler against certain anti-National Socialist sections of the population, and pointed out that the crematories in Auschwitz had certainly not been built in order to come to a standstill too soon. This type of activity was doubly dangerous to me as a non-Party member, since I was twice as suspicious and under twice as much observation as other people. The fact alone that the prosecution considers the death sentence as the only just punishment shows that they did not succeed in entering into the train of thoughts, possibilities, and dangers of those who during the war carried out deliberate activities in opposition to the SS. Otherwise such a request would have been impossible.

This Tribunal will therefore understand my attitude of resignation, since without feeling guilty at any time I lived through this trial. May I merely request this Tribunal to, at least, put me on that level with those Germans during the pronouncement of these findings, who, during the National Socialist regime, contrary to me, showed political lethargy and inactivity.

N. Final Statement of Defendant Baier ¹

DEFENDANT BAIER: Mr. President, your Honors, I am quite sure this Tribunal knows that contrary to the promises given me I was torn from my profession as a teacher. Within the framework of the war measures I was transferred into the WVHA as a soldier. It has been my intention in the course of this trial to beautify nothing, to always tell nothing but the truth. I have at all times tried to fulfill my duty towards my country, and I have always dealt with all jobs assigned to me correctly.

Looking back at my life, I have no reproaches to make myself. Never did I intentionally harm a human being, regardless of nation, race, or religion. I can make this statement in good conscience before God. That things of tremendous wretchedness occurred in the concentration camps is a shaking realization that arose during the course of this trial, I had no part in them, and this is my honest conviction. I need not mention that I disapproved of them.

O. Final Statement of Defendant Volk ²

DEFENDANT VOLK: Your Honors, after a hundred days of trial have passed, the guilty men responsible for soiling Germany's honor with tyranny and murder are to be brought to justice.

¹ Tr. p. 8039.

² Tr. pp. 8039-8042.

These Tribunals are to mete out judgment to the worst war criminals. The prosecution counts me among those persons since they put me in this dock.

Until the outbreak of this war, I was not a member of the WVHA. A military order of the Supreme Command of the Armed Forces put me into a position against my will for which I have now to face responsibility, as a captain in the Waffen SS and a lawyer. The files of my work have been at the disposal of the prosecution in twelve crates which have been handed over by me, and there are no gaps. The officials of the prosecution have submitted from this material, covering a period of 4 years, about ten documents on which I had worked as a legal expert in the civil legal sphere on which I had written after having taken down the minutes. Your Honors know this material in detail. None of the witnesses for the prosecution knew me, nor could any of them report a crime supposedly committed by me.

Sine ira et studio, I have spent many a sleepless night during this trial, asking myself as a jurist and a man: "Are you really a war criminal?" In application of the controversial existing laws, I could neither answer this question in the affirmative, morally nor legally, but from my conscience I feel clean.

Like millions of other young Germans I followed the military order and obeyed my oath of allegiance, in spite of the greatest qualms with regard to the political system. I trusted the leaders which came into power without my will and without my assistance, and I followed them, and I have been immeasurably disappointed and deceived. When fulfilling my tasks as a lawyer, I followed truthfully the teaching of my teachers and considered the fate of those concerned as important as my own. It was in keeping with those principles that I acted. Therefore, my actions could have been nothing but humane. As a jurist I know no collective judgment of human beings. I valued everyone according to his actions, because in my view only individual judgment will lead to just findings with regard to a man. I have told you the truth because as a jurist an oath is particularly holy to me, nor did I have to be afraid of the truth.

Your Honors, I know that you are facing a very difficult task, that you are passing judgment in a foreign country, the language of which you do not understand and the authoritarian government administration and economy of which you have not experienced yourselves. You come from a happy country, the people of which had no worries about food not even during war; your towns were not bombed night after night; your women and children did not tremble day and night in fear of their lives. In your country, and contrary to Germany, free exchange of view has

been possible since Thomas Jefferson, and has been the basic pillar of your Constitution.

I have correctly told you though my belief in political leadership has been deeply shaken, I still believe in the justice of judges, even if they belong to a country which has not yet signed a peace with my Fatherland. I do not consider the judge a servant of the law; I consider him a servant of justice. It is for that reason that I, as a German, place my fate and that of my family calmly into your hands.

P. Final Statement of Defendant Mummmenthey *

DEFENDANT MUMMENTHEY: Mr. President, your Honors, I have nothing to add to the arguments of my counsel, Dr. Froeschmann, as to the individual counts of the indictment in this trial.

If I, nevertheless, may use this privilege to deliver a personal statement, I will do so in the following respects:

I am here before this high American Court as a German. I trust that what I have done will be looked upon and judged according to the conditions prevailing then in Germany and not as nowadays—*ex nunc*—they are expected to have been. I could neither minimize nor exaggerate my position within the German Earth and Stone Works Ltd. [DEST] and the WVHA, but I could only present it the way it really was. The picture which the prosecution gives of my position does not correspond with the facts, in spite of a few features which seem to support the assertions of the prosecution.

My activities with the DEST from 1939 to 1945, took place at a time of a generally stormy development and almost exclusively during war. These facts can only be fully appreciated by those who experienced them themselves. The DEST was not an enterprise for the exploitation of defenseless human beings nor a slave labor enterprise. I must object to this with all my heart, not only for my own sake, but also for the sake of my collaborators. What we regarded our goal was the fulfillment of an economic task in the field of the stone and earth industry, connected with an attempt to solve a social problem. This social problem, the rehabilitation of criminal and antisocial elements within human society still remains unsolved. This fact is very clearly shown in the essay by Herbert Blank with the title, "Behind the Lattice," in the Northwest German Magazine, issue 9 of 1946. If it does not contradict the rules of this Tribunal, I should like to submit a copy of this essay.

* Tr. pp. 8042-8044.

Out of almost 11 years of custody in the Third Reich for high treason, the author spent four years in penitentiaries of the Administration of Justice. From his experiences and observations of that time, he proposes a reform of the system of infliction of punishment, according to which, instead of penitentiaries, camps should be established. He continues, and I quote,

“One should not be scared by the fact that during the Hitler time the camp was corrupted. All this speaks against Hitler, but nothing speaks against the camp, against the possibility, to reconvert in the open air psychologically sick people to useful and healthy fellow-creatures.” Blank calls this problem, “one of the most important for our future,” and he states: “Not only the money, but first of all the security of every individual is in danger, if we do not succeed in finding a reasonable form of the infliction of punishment for the days to come.”

The single proposals of Blank—is this an irony of fate—correspond exactly to the then plan of the DEST. If a former inmate of concentration camps and a prisoner of prisons of the Administration of Justice, arrives himself at such a proposal, I conclude, that what the DEST planned and carried out within the range of possibilities could not be wrong and never could have been something damnable.

I have never had a criminal intent, let alone practiced such. My economic activity was filled with social ideas, born out of my nature.

That we could not reach our aim in the DEST is the tragedy of my own life and that of my collaborators. However, it is no proof that the ways and ends were blameworthy, or even criminal.

Since in this trial, a special problem, namely the treatment of the Jews, plays a special part, I want to add something in connection with this point. Though I don't think I have any Jewish relations, I nevertheless, never regarded them as human beings to be treated in an inhuman way or even to be killed. The loyal attitude towards the Jews in my family may be illustrated by the fact that my father, up to the end, in the banking house managed by him, employed a half-Jew in a leading position though the Kreisleiter [district leader] of the NSDAP under threat had ordered his dismissal. I have an affidavit dealing with this fact. The only reason why my counsel did not submit it was that this did not have anything to do with my activity in the DEST.

A Jew, Leopold Goldschmidt, recently in public said this: “The Jewish obligation being that of a minority, should consist in reserve and adaption, while the Christian obligation should consist in patience and indulgence.” May the present and future realize what the past has missed and finally take the place of hate, what

two thousand years ago from the Orient came as a light into the darkness of the world.

My fate is put into your hands, Mr. President, and your Honors. May God help you find the just verdict.

Q. Final Statement of Defendant Bobermin *

DEFENDANT BOBERMIN: Your Honors, the trial has come to an end, the Jurist becomes silent; the accused man has the word; man speaks, but will he be understood? Those who lovingly occupy themselves with foreign languages, know how difficult it is often to find a word, a sentence of one language for the word, the sentence of another, which must have the same meaning and the same touch.

Even greater than the difficulties of languages are the difficulties of human understanding. Romain Rolland, who became one of the best Europeans, and yet remained a good Frenchman, fifty years ago wrote the following: "Knowledge can only be obtained at the price of many errors, much suffering, and unfortunate experiences."

However, are suffering, errors, and unfortunate experiences not different for all the nations? And knowledge and understanding are not the same in the case of all the nations. Only those who knew the conditions in Germany during the war can rightly understand the actions and behavior of individual Germans. Yet beyond all understanding, even for us Germans, there remains the murder of human beings in and outside concentration camps, beyond all events of war. They fill me with the same horror and fright as any other decent human being.

My life was devoted to service on economy. I considered it fortunate that in the first years of the war I could work in this sphere in order to alleviate the destruction brought about by the hard necessities of war. I had no reason, therefore, to be dissatisfied with the tasks given me by military order.

I will stand by the principles of inviolability of private property. The sentence of Pierre Joseph Proudhon, "Property is theft," I cannot recognize. What I myself once owned I had to work for too much and save, under too much deprivation, not to realize the value of protection for my property which has become the booty of the victors.

I did not propose the confiscation of the brickworks. At that time I was working elsewhere. I did not decree the confiscation.

* Tr. pp. 8044-8047.

For that I did not have the power nor did I carry it out. That was a matter for other offices. At that time, however, I asked myself, "Can you administer the property of others ordered by the State, but for the sake of the owner?"

I answered this question with "Yes," because with that "Yes," I did not infringe upon the limits of the principle of private ownership, which I had adopted. The limits of private ownership cannot be drawn as clearly in industry as with goods for personal use. Those who take part in the production and earn a living through it and who need the products, have a claim to them.

Through my work I have given work and bread to more than 10,000 people who worked as free men in their home countries; I have satisfied the needs of hundreds of thousands of people; and I cannot recognize a crime in that.

Where confiscations of plants presented difficulties for the owners of the plants, I showed human understanding for the social safeguarding. It was not my fault that in one of the 400 plants which I supervised, some concentration camp inmates worked beside several hundred free workers, this was done against my suggestion, nor could I prevent it. The powers which I had to improve the living conditions and the feeding so that it was more like that of the free workers, I used. During the last year of the war I did my duty as a soldier in service at the front. Without reason the prosecution has raised the charge against me that during that time I had participated in crimes against humanity. They failed to supply the proof, since that assertion did not concur with the truth.

I acted towards enemies and allies, against soldiers and civilians, in a manner as is compatible with the laws of war and customs of war, with the moral and the Prussian tradition for soldiers and for officers.

In one of the finest books, Franz Werfel holds that no one can separate himself from the fate of his people, even if he wishes to be a world citizen.

In this book Werfel describes in a moving manner the fate of the Armenian people. The knowledge which is to be drawn from that experience is a generally human one.

I am a German and Germany's fate is my fate. During 2½ years of a prisoner's life, I have seriously examined my conscience to see if I was guilty. I did not do this narrowly, adopting a national point of view, but I adopted the point of view of a decent human being, as I have always considered myself to be. I consider myself as innocent today as I did on the day of the arraignment.

The decision as to whether I am guilty according to the laws valid today is in the hands of this Tribunal.

R. Final Statement of Defendant Klein *

DEFENDANT KLEIN: May it please your Honors, generally speaking, I have nothing to add to the arguments of my defense counsel, Dr. Bergold. I would simply like to deliver a personal statement, namely, that I never did want to commit crimes and that I never did commit crimes. I had nothing to do with those horrible things uncovered before this Tribunal and I had nothing in common with them. The fate which has befallen my family under the past regime was horrible. I should like to remind you here that my sister and her husband were among the victims of the regime and that my father out of shame and worries suffered an early death. Furthermore, that the proceedings against my person did not come to an end, is only due to the fact that the system was already beginning to disintegrate. I knew my family's attitude very well. Please be convinced that this explains well enough why I never participated in crimes which were committed against concentration camp inmates because considering the threat of persecution by the State regarding my family, I would not have but helped to prepare the fate of my relatives.

During all these years when I had been imprisoned, namely since 12 April 1945, I have again and again examined this question. However, I could not find myself guilty, not even towards my relatives, as my conscience is still more sensitive as to my family than as to the law.

This, your Honors, please bear in mind when judging my case.

* Tr. p. 8047.

VIII. JUDGMENT

A. Opinion and Judgment of the United States Military Tribunal II

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NUERNBERG,
GERMANY AT A SESSION OF MILITARY TRIBUNAL
II HELD NOVEMBER 3, 1947

The United States of America

—vs—

Oswald Pohl, August Frank, Georg
Loerner, Heinz Karl Fanslau,
Hans Loerner, Josef Vogt, Erwin
Tschentscher, Rudolf Scheide, Max
Kiefer, Franz Eirenschmalz, Karl
Sommer, Hermann Pook, Hans
Baier, Hans Hohberg, Leo Volk,
Karl Mummenthey, Hans Bober-
min, and Horst Klein, *Defendants.*

*OPINION AND
JUDGMENT*

Case No. 4

United States Military Tribunal II was established on the 14th day of December 1946 by General Order No. 85 of the United States Military Governor for Germany. It was the second of several Military Tribunals constituted in the United States Zone of Occupation pursuant to Military Government Ordinance No. 7, for the trial of offenses defined as crimes by Law No. 10 of the Control Council for Germany.

Under the order which established the Tribunals and designated the undersigned as members thereof, Military Tribunal II was ordered to convene at the Palace of Justice, Nuernberg, Germany, and to hear and determine such cases as might be filed by the Chief of Counsel for War Crimes.

Telford Taylor, Brigadier General, U. S. Army, Chief of Counsel for War Crimes, on 13 January 1947, filed an indictment against the defendants herein named, in the Office of the Secretary General of Military Tribunals.

A copy of said indictment in the German language was served on each defendant on 13 January 1947, except for the defendant Georg Loerner, who was served on 14 January 1947. More than thirty days after said indictment was served on each defendant,

Military Tribunal II arraigned the defendants in the Palace of Justice, Nuernberg, Germany, on 10 March 1947. Upon arraignment, each defendant entered a plea of "not guilty" to all the charges preferred against him. Prior to the arraignment, each defendant was assigned German counsel of his own selection and each defendant was represented by his counsel during the arraignment.

On 8 April 1947, the prosecution began its presentation of evidence. At the conclusion of the prosecution's case in chief the defendants began the presentation of their evidence. The submission of evidence and the arguments of counsel were concluded on 20 September 1947. The personal statements of all of the defendants were heard on 22 September 1947.

During the trial of the case, the Tribunal sat for 101 sessions, (on 101 different dates, including date of arraignment; also, including one-half day joint session with all Tribunals in bank).

During the trial the prosecution offered 21 witnesses, the Tribunal itself called one witness, and the defendants offered 45 witnesses, including the 18 defendants themselves, a total of 67 witnesses.

In addition, the prosecution put in evidence as exhibits, a total of 742 documents; the defendants put in evidence as exhibits a total of 614 documents, making a grand total of 1356 documents received in evidence. The entire record of the case consists of more than 9,000 pages.

Copies of all exhibits offered in evidence by the prosecution in its case in chief were furnished in the German language to the defendants before the same were offered in evidence.

During the entire proceedings each defendant was present in Court, except when a defendant was absent for a short time upon his own motion, owing to illness, or other reasons.

Counsel for the defendants made numerous applications to the Tribunal for the purpose of procuring the personal attendance of persons who had made affidavits on behalf of the prosecution. If at all possible, the Tribunal granted such applications and procured the personal attendance of such persons in order that they could be interrogated or cross-examined by defense counsel.

The trial was conducted generally along the lines usually followed by the trial courts of the various States of the United States, except as to the rules of evidence. In compliance with the provisions of Article VII of Ordinance No. 7, great latitude in presenting evidence was allowed prosecution and defense counsel, even to the extent at times of receiving in evidence certain matters of but scant probative value.

The trial was conducted in English and German with an ade-

quate sound system for conveying either language to all participants and listeners. All proceedings on the trial were reduced to writing in English and German, and an electrical recording of all proceedings was also made.

The Tribunal was most diligent in its efforts to allow each defendant to present his defense completely, in accordance with the spirit and intent of Military Government Ordinance No. 7. Counsel for each defendant was permitted to cross-examine witnesses of the prosecution and other defense witnesses and to offer in evidence all matters deemed of probative value.

THE JURISDICTION OF THE TRIBUNAL

The jurisdiction of Military Tribunal II is determined by Law No. 10 of the Control Council for Germany. The pertinent parts of this Law with which we are concerned provide as follows:

ARTICLE II

"1. Each of the following acts is recognized as a crime:

"(b) *War Crimes.* Atrocities or offenses against persons or property constituting violation of the laws or customs of war, including but not limited to, murder, ill treatment or deportation to slave labor or for any other purpose, of civilian population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

"(c) *Crimes Against Humanity.* Atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.

"(d) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

"2. Any person without regard to nationality or capacity in which he acted, is deemed to have committed a crime as defined in * * * this Article, if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein or (d) was connected with plans or enterprises involving its commission or (e) was a member of any organization or group connected with the commission of any such crime * * *."

The indictment in this case contains four counts and is filed pursuant to these provisions.

COUNT ONE—THE COMMON DESIGN OR CONSPIRACY

The first count of the indictment charges that the defendants, between January 1933 and April 1945, acting pursuant to a common design, unlawfully, wilfully, and knowingly did conspire and agree together, and with each other, and with divers other persons, to commit war crimes and crimes against humanity as defined in Control Council Law No. 10, Article II.

During the trial each of the defendants challenged this count of the indictment, and moved that the same be quashed and stricken from the indictment. The defendants alleged in their motions that under the basic law the Tribunal did not have jurisdiction to try the charge of conspiracy as a separate substantive offense. The motion to quash was argued by counsel for the prosecution and defense and thereafter the Tribunal granted the motion. In order that this judgment may be complete, the ruling of the Tribunal is incorporated in this judgment:

“It is the ruling of this Tribunal that neither the charter of the International Military Tribunal nor Control Council Law No. 10 has defined conspiracy to commit a war crime or crime against humanity as a separate substantive crime; therefore, this Tribunal has no jurisdiction to try any defendant upon a charge of conspiracy considered as a separate substantive offense.

“Count one of the indictment, in addition to the separate charge of conspiracy, also alleges unlawful participation in the formulation and execution of plans to commit war crimes and crimes against humanity which actually involved the commission of such crimes. We, therefore, cannot properly strike the whole of count one from the indictment, but, insofar as count one charges the commission of the alleged crimes of conspiracy as a separate substantive offense, distinct from any war crime or crime against humanity, the Tribunal will disregard that charge.

“This ruling must not be construed as limiting the force or effect of Article II, paragraph 2 of Control Council Law No. 10, or as denying to either prosecution or defense the right to offer in evidence any facts or circumstances occurring either before or after September 1939, if such facts or circumstances tend to prove or to disprove the commission by any defendant of war crimes or crimes against humanity as defined in Control Council Law No. 10.”

Inasmuch as the offenses charged in the unstricken part of count one are repeated in substance in counts two and three, the entire first count may for purposes of this judgment be disre-

garded without detracting from the contents of the indictment as a whole.

COUNTS TWO AND THREE—WAR CRIMES AND CRIMES AGAINST HUMANITY

The second and third counts of the indictment charge the commission of war crimes and crimes against humanity. The counts are identical in content, except that in count two the acts which are made the basis for the charges are alleged to have been "committed against the civilian populations of occupied territories and prisoners of war," whereas in count three the criminal acts are alleged to have been "committed against German civilians and nationals of other countries." With this distinction observed, both counts will be treated as one and discussed together.

Counts two and three allege, in substance, that between September 1939 and April 1945 all of the defendants herein named, "were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of atrocities and offenses, including but not limited to plunder of public property, murder, torture, illegal imprisonment and enslavement, and deportation to slave labor of, and brutalities, atrocities, and other inhumane and criminal acts against thousands of persons."

The indictment further avers that all of the defendants were associated with the Economic and Administrative Main Office, commonly known as the "WVHA" which was one of the twelve main departments of the SS.

The indictment more specifically charges the defendants with war crimes and crimes against humanity, as follows:

The defendant Oswald Pohl was the head of the WVHA and the defendants August Frank and Georg Loerner were his deputies. The WVHA was divided into Amtsgruppen [office groups or divisions], which were interrelated in their operations, purposes, and functions.

Amtsgruppe A, among other things, was responsible for financial matters of the SS, including those relating to its concentration camps. This Amtsgruppe was subdivided into five offices or Aemter, which were charged with responsibility for certain parts of the entire financial administration. The defendants Frank and Fanslau were, successively, heads of Amtsgruppe A. The defendants Hans Loerner, Frank, Vogt, and Fanslau were heads of offices or Aemter within this Amtsgruppe A.

Amtsgruppe B, among other things, was responsible for the supply of food and clothing for inmates of the concentration

camp, and of food, uniforms, equipment, billets, and camp quarters for the members of the SS. It was subdivided into five offices or Aemter. The defendant Georg Loerner was the chief of Amtsgruppe B, and the defendant Tschentscher was his deputy and chief of one of the offices or Aemter within this Amtsgruppe B. The defendant Scheide was head of Amt B V [5] within Amtsgruppe B.

Amtsgruppe C, among other things, was charged with the construction and maintenance of houses, buildings, and structures of the SS, the German police, and of the concentration camps and prisoner of war camps. It was subdivided into six offices or Aemter. The defendants Kiefer and Eirenschmalz were heads of Aemter or offices within this Amtsgruppe C.

Amtsgruppe D, which prior to March 1942 was known as the Inspectorate of Concentration Camps, was responsible, among other things, for the administration of the concentration camps and of the concentration camp inmates. It was responsible for the food, clothing, housing, sanitation, and medical care of the concentration camp inmates, and of the order, discipline, and regulation of the lives of the inmates. It was charged with the supply of the forced services and labor of the concentration camp inmates to public and private employers throughout Germany and the occupied countries. It was subdivided into six [four] offices or Aemter. The defendant Sommer was the deputy chief of one of the offices or Aemter of Amtsgruppe D, responsible for the supply of the services and labor of concentration camp inmates. The defendant Pook was in charge of matters relating to dentistry affecting the concentration camp inmates.

Amtsgruppe W, among other things, was responsible for the operation and maintenance of various industrial, manufacturing, and service enterprises throughout Germany and the occupied countries. In the operation of the enterprises under its control, this Amtsgruppe employed many concentration camp inmates. It was subdivided into eight offices or Aemter. The defendant Pohl was the head of Amtsgruppe W; the defendant Georg Loerner was his deputy; and the defendants Hohberg and Baier were his executive assistants. The defendant Volk was personal adviser on the staff of Oswald Pohl and head of the legal section of the executive office of Amtsgruppe W, and the defendants Mummmenthey, Bobermin, and Klein were heads of offices or Aemter within this Amtsgruppe.

The indictment then goes on to charge that these defendants, acting concertedly within the framework of WVHA and in pursuance of a common criminal design, perpetrated, aided and abetted in the perpetration of atrocities and offenses against

persons and property, including plunder of public and private property, murder, extermination, enslavement, deportation, unlawful imprisonment, torture, persecutions on political, racial, and religious grounds, ill-treatment of, and other inhumane and unlawful acts against thousands of persons, including German civilians, nationals of other countries, and prisoners of war. The indictment then relates in detail the means and methods by which the above criminal acts were accomplished.

Counts two and three of the indictment conclude with the averment that these crimes and atrocities "constitute violations of international conventions * * *, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10."

COUNT FOUR—MEMBERSHIP IN CRIMINAL ORGANIZATION

The fourth count of the indictment avers that all of the defendants herein except defendant Hohberg were members subsequent to 1 September 1939, of the SS, declared to be criminal by the International Military Tribunal and paragraph 1 (d), Article II of Control Council Law No. 10.

The law, as pronounced by the International Military Tribunal with reference to membership in an organization declared criminal, is as follows:

"In dealing with the SS the Tribunal includes all persons who had been officially accepted as members of the SS including the members of the Allgemeine SS, members of the Waffen SS, members of the SS Totenkopf Verbaende, and the members of any of the different police forces who were members of the SS. The Tribunal does not include the so-called riding units * * *.

"The Tribunal declares to be criminal within the meaning of the Charter the group composed of those persons who had been officially accepted as members of the SS as enumerated in the preceding paragraph who became or remained members of the organization with knowledge that it was being used for the commission of acts declared criminal by Article 6 of the Charter, or who were personally implicated as members of the organization in the commission of such crimes, excluding, however, those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes. The basis of this finding is the participation of the organization in war crimes and crimes

against humanity connected with the war; this group declared criminal cannot include, therefore, persons who had ceased to belong to the organizations enumerated in the preceding paragraph prior to 1 September 1939."

Under the American concept of liberty, and under the Anglo-Saxon system of jurisprudence, every defendant in a criminal case is presumed to be innocent until the prosecution by competent and credible proof has shown his guilt to the exclusion of every reasonable doubt. This presumption of innocence follows him throughout the trial until such degree of proof has been adduced. Beyond a reasonable doubt, does not mean beyond a vain, imaginary, or fanciful doubt, but means that the defendant's guilt must be fully proved to a moral certainty, before he is condemned. Stated differently, it is such a doubt as, after full consideration of all the evidence, would leave an unbiased, reflective person charged with the responsibility of decision, in such a state of mind that he could not say that he felt an abiding conviction amounting to a moral certainty of the truth of the charge.

If any defendant is to be found guilty under counts two or three of the indictment, it must only be because the evidence in the case has clearly shown beyond a reasonable doubt that such defendant participated as a principal in, accessory to, ordered, abetted, took a consenting part in, or was connected with plans or enterprises involving the commission of at least some of the war crimes and crimes against humanity with which the defendants are charged in the indictment. Only under such circumstances may he be convicted.

If any defendant is to be found guilty under count four of the indictment, it must be because the evidence has shown beyond a reasonable doubt that such defendant was a member of an organization or group subsequent to 1 September 1939, declared to be criminal by the International Military Tribunal, as contained in the judgment of said Tribunal.

The defendants are charged in the indictment as officials of the Wirtschafts- und Verwaltungshauptamt (commonly called the WVHA) of the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS). The whole sordid history of the SS and its criminal activities has been told in detail in the judgment of the International Military Tribunal (*pp. 268-273, Official Edition*), and need not be repeated here. In this case, the Tribunal is concerned only with the members of the WVHA, or Economic Administrative Main Office, and its predecessors, the Hauptamt Verwaltung und Wirtschaft, or Main Office Administration and Economy, and the Hauptamt Haushalt und Bauten, or Main Office Budget and Buildings.

Early in 1942, the WVHA was organized under Himmler's order to coordinate and consolidate the administrative work of the SS. The organization of the former Administrative Department and Department of Budget and Buildings of the SS was taken over intact, and, in addition, another Main Office of the SS was incorporated into the WVHA, namely, the Inspekteur der Konzentrationslager, or Inspector of Concentration Camps. Of this revamped organization, the defendant Pohl was continued as chief and was in supreme command. The WVHA was divided into five Amtsgruppen, or departments [office groups or divisions], namely:

Amtsgruppe A—budget, law and administration.

Amtsgruppe B—supply, billeting, and equipment.

Amtsgruppe C—works and buildings.

Amtsgruppe D—concentration camps.

Amtsgruppe W—economic enterprises.

Each Amtsgruppe was headed by a chief and was, in turn, divided into Aemter or offices. For example, Amtsgruppe A was subdivided into Amt A I to Amt A V, Amtsgruppe B was likewise subdivided, while Amtsgruppe W was subdivided into Amts W I to Amt W VIII. Each Amt or office was charged with some specialized phase of the general field covered by its Amtsgruppe.

The WVHA, as one of the twelve main offices of the SS central organization, was charged with the administrative needs of the entire SS, including supplies of every kind, billeting, transportation, and also the administration of the entire system of concentration camps. This did not involve the commitment to, or release of inmates from concentration camps, but it did involve the maintenance and administration of the camps and the use of the inmates as a source of forced labor.

In addition to its functions as an administrative agency, WVHA managed and controlled a vast number of economic enterprises which were either owned or controlled by the SS. These enterprises embraced an extensive industrial empire, extending from Holland to Poland and Hungary, and were operated almost entirely by the use of concentration camp labor. The operation and administration of these enterprises was the task of Amtsgruppe W, of which defendant Pohl was the chief and defendant Georg Loerner the deputy chief. Ancillary to Amtsgruppe W was an amorphous organization called staff W, headed by the chief of staff W, or chief W. This staff exercised general administrative supervision of the W industries, negotiated for and procured new enterprises, arranged financing, floated loans, negotiated financial matters with the Reich Minister of Finance, and in other ways performed broad coordinating functions within the framework of

the SS industries. The chief of staff W was at one time the defendant Hohberg and later the defendants Volk and Baier.

More than 25 of the SS industries were controlled, through stock ownership, by a parent holding company, known as Deutsche Wirtschaftsbetriebe, or DWB, of which defendant Pohl was the chief officer. These industries included a wide range of projects: stone quarries, brick manufacturing plants, cement mills, pharmaceutical factories, real estate, housing, building materials, book printing and binding, porcelain and ceramics, mineral water and fruit juices, furniture, foodstuffs, textiles and leather, etc. For the purposes of this case, four of these industries are of particular significance:

(1) The Deutsche Erd- und Steinwerke, known as DEST, which operated five granite quarries, six brick and tile plants, and a stone-cutting plant.

(2) The Klinker-Zement, manufacturing brick and cinder block, fireproof products, ceramics, lime, and chalk. This company had large subsidiaries at Golleschau, Prague, Lvov, and Bialystok.

(3) Ostindustrie, or OSTI, organized in March 1943 and dissolved a year later, which operated and later liquidated all the confiscated Jewish industries in the Government General, including foundries, textile plants, quarries, glass works, and others. Enforced Jewish labor was employed in these enterprises.

(4) The Deutsche Ausrüstungswerke, or DAW, the German Equipment Works, which operated various industries in seven concentration camps, using forced inmate labor.

The freedom of man from enslavement by his fellow men is one of the fundamental concepts of civilization. Any program which violates that concept, whether prompted by a false feeling of superiority or arising from desperate economic needs, is intolerable and criminal. We have been told many times, "Germany was engaged in total war. Our national life was endangered. Everyone had to work." This cannot mean that everyone must work for Germany in her waging of criminal aggressive war. It certainly cannot mean that Russian, and Polish, and Dutch, and Norwegian noncombatants, including women and children, could be forced to work as slaves in the manufacture of war material to be used against their own countrymen and to destroy their own homelands. It certainly cannot mean, in spite of treaties and all rules of civilized warfare (if warfare can ever be said to be civilized), that prisoners taken in battle can be reduced to the status of slaves. Even Germany prior to 1939 had repudiated any such fallacious position. And yet, under the hypnotism of the Nazi ideology, the German people readily became complaisant to this strange and inhuman system. Under the spell of National Social-

ism, these defendants today are only mildly conscious of any guilt in the kidnaping and enslavement of millions of civilians. The concept that slavery is criminal *per se* does not enter into their thinking. Their attitude may be summarized thus: "We fed, clothed, and housed these prisoners as best we could. If they were hungry or cold, so were the Germans. If they had to work long hours under trying conditions, so did the Germans. What is wrong in that?" When it is explained that the Germans were free men working in their own homeland for their own country, they fail to see any distinction. The electrically charged wire, the armed guards, the vicious dogs, the sentinel towers—all those are blandly explained by saying, "Why, of course. Otherwise the inmates would have run away." They simply cannot realize that the most precious word in any language is "liberty." The Germans had become so accustomed to regimentation and government by decree that the protection of individual human rights by law was a forgotten idea. The fact that the people of the Eastern territories were torn from their homes, families divided, property confiscated, and the able-bodied herded into concentration camps, to work without pay for the perpetrators of these outrages—all this was complaisantly justified because a swollen tyrant in Berlin had scribbled "HH" on a piece of paper. And these are the men who now keep repeating, "*nulla poena sine lege.*"

This Tribunal, in its judgment in the case of United States *vs.* Erhard Milch,* had occasion to say:

"The German nation, before the ascendancy of the NSDAP, had repeatedly recognized the rights of civilians in occupied countries. At the Hague Peace Conference of 1907, an amendment was submitted by the German delegate, Major General von Guendell, which read:

'A belligerent is likewise forbidden to compel the nationals of the adverse party to take part in the operations of war directed against their country, even when they have been in his service before the commencement of the war.'

"The German manual for war on land (*Kriegsbrauch im Landkriege*, Edition 1902) stated:

'The inhabitants of an invaded territory are persons endowed with rights * * * subject to certain restrictions * * * but who otherwise may live free from vexations and, as in time of peace, under the protection of the laws.'

A faint effort has been made to show that, although no formal judicial proceeding in the nature of an accusation and trial was had in each case, nevertheless each commitment to a concentra-

* *Trials of War Criminals before the Nuernberg Military Tribunals*, Vol. II, pp. 789-790.

tion camp was preceded by a sort of "cabinet trial" by the Gestapo and that this complied with German Law. To put it bluntly, the Tribunal does not believe a word of it. Commitments to concentration camps did not depend upon individual conduct but were the carrying out of a broad categorical Nazi political policy, frankly announced by Himmler. We can hardly be expected to believe that the thousands of Eastern women in Ravensbrueck and the boys and girls who were liberated from the concentration camps by the Allied Armies were accorded even a "cabinet trial." When whole villages were deported en masse, it is ridiculous to believe that each of the inhabitants was accused of some infraction of German Law, given a hearing of even the "cabinet" variety, and then solemnly found guilty and committed. Could any rational person believe that this or any comparable procedure accompanied the annihilation of the ghetto at Warsaw?

Far from making any attempt at formal accusation and determination of guilt, a conscious effort was made to evade embarrassing steps which slowed up the program of extermination. On 13 October 1942, Thierack, Reich Minister of Justice, wrote to Martin Bormann, stating (*NO-558, Pros. Ex. 335*):

"* * * I intend to turn over criminal proceedings against Poles, Russians, Jews and gypsies to the Reichsfuehrer SS. In so doing I base myself on the principle that the administration of justice can only make a small contribution to the extermination of members of these peoples. The Justice Administration undoubtedly pronounces very severe sentences on such persons, but that is not enough to constitute any material contribution towards the realization of the above-mentioned aim. * * * I am * * * of the opinion that considerably better results can be accomplished by surrendering such persons to the police, who can then take the necessary measures *unhampered by any legal criminal evidence*. * * * The police may prosecute Jews and gypsies irrespective of these conditions."

This specious and shallow excuse has been offered seriously in justification of a nation-wide policy of deportation and slavery. We have witnessed a strange anomaly in this case. Defendants and their witnesses have bowed their heads in profound shame at the evidence of mass murder and wholesale extermination, but as to the cruel enslavement of whole races, they evidence little or no feeling of guilt or culpability whatsoever. They spoke freely and made voluminous records of "prisoner labor" and "inmate labor." They made elaborate industrial plans and wrote without shame, "We have been promised 8,000 Jewish laborers for this enterprise." They planned and started pretentious monuments

to the Nazi ideology and wrote, "Sauckel says that Eastern laborers cannot be furnished now, but that there should be no difficulty *after the war*." The SS economic leaders carried on extended negotiations over what they euphemistically called "prisoners' wages." Elaborate sliding wage scales were drafted and published. But in fact all this had nothing to do with wages. Not one mark was paid to the wage earners. The peons who wore the convicts' garb and carried the heavy stones up to the hill from the quarry at Mauthausen received only potato soup and a pallet of straw for their work. "Wages" referred to the amount the SS and other industries should pay per hour to the German Reich, the owner of the slaves. It seems to have been taken for granted by the Nazi leaders and the SS that mass deportation to enforced labor was a natural and legitimate concomitant of successful invasion, and that the civilian population was merely a part of the victor's spoils.

Slavery may exist even without torture. Slaves may be well fed, well clothed, and comfortably housed, but they are still slaves if without lawful process they are deprived of their freedom by forceful restraint. We might eliminate all proof of ill-treatment, overlook the starvation, beatings, and other barbarous acts, but the admitted fact of slavery—compulsory uncompensated labor—would still remain. There is no such thing as benevolent slavery. Involuntary servitude, even if tempered by humane treatment, is still slavery.

The extent of the deportation of Eastern civilian laborers and the ruthless manner in which they were seized and abducted has been related in detail in the judgment of the International Military Tribunal (*pp. 243-247, Official Edition*). To repeat the shocking story in the judgment in this case would serve no useful purpose. It is sufficient simply to state that it has been repeatedly and conclusively proved before this and other Tribunals that about 5,000,000 men, women, and children were violently seized and forcibly deported as slaves. As to the systematic extermination of the Jews, the International Military Tribunal has found (*pp. 247-252, Official Edition*) that, in pursuance of a fanatical public policy, it was deliberately decided to exterminate an entire race of human beings. There is no way to determine the total number of Jews who were killed, but in testimony before the International Military Tribunal it was stated that one military group operating in the East killed 90,000 people in one year, and another group killed 135,000 Jews and Communists in the first four months of the program. With these findings of fact by the International Military Tribunal this Court is in full accord and adopts them as found facts in the present case.

MEDICAL EXPERIMENTS

The fact that criminal medical experiments were performed upon the involuntary inmates of concentration camps has been repeatedly proved and determined before these Tribunals, in the case of *United States vs. Karl Brandt, et al.* (Tribunal I), in the case of *United States vs. Erhard Milch*, tried before this Tribunal, and by ample and convincing proof in the instant case. To completely document this finding of fact would result in unduly prolonging this judgment. It is sufficient to state that the performance of such criminal medical experiments has not been seriously denied. Defendants have unanimously denied knowledge of or participation in such experiments, but the proof of their performance stands substantially uncontradicted. The names of Dr. Rascher, Dr. Grawitz, and Dr. Beiglboeck have become infamous. The concentration camps furnished an unlimited supply of human subjects for these barbarous experiments, and inmates in large numbers were compelled to submit to so-called scientific tests which invariably involved torture and in thousands of cases maiming, disfigurement, and death. Inmates were placed in tanks, where the air pressure was decreased in simulation of high altitudes. A careful chart was kept of their violent reactions, which indicated intense pain and suffering. The chart not infrequently ended with, "Subject died at 9:18." Others were exposed, naked to freezing temperatures for hours, aided by ice-water immersion. As was to be expected, many subjects froze to death. Others were compelled to drink sea water until they went mad from thirst. Inmates were exposed to artificial inoculation of yellow fever, cholera, malaria, typhus, and spotted fever, and hundreds died as a result. Incisions were made in the legs of subjects and the development of gangrene accelerated by the introduction of septic foreign matter. Poison gas, mustard gas, phosphorous, and sulphur were used on inmates in order to prove that these chemicals are dangerous and often fatal—by no means a novel scientific finding. This is but a part of the horrible inventory. As one means toward "a final solution of the Jewish problem," a program of wholesale sterilization of the Jews was instituted and various methods by which sterility could be accomplished without the knowledge of the victim were devised. Even deliberate castration was resorted to.

EUTHANASIA

The wholesale extermination of those inmates who for any reason had become economically valueless to the Reich was accomplished by the euthanasia program. This plan was originally

adopted to dispose of the insane, but it was expanded to include the incurables, the aged, the "idle caters", the habitual criminals, and finally the political irreconcilables. It was a national Reich-approved plan for deliberate and premeditated murder on a large scale. Elaborate case histories of inmates were prepared and screened at the camps by travelling physicians, who by a process of snap judgment determined whether men and women should live or die. Those whose records happened to fall in the extermination file were shipped, like cattle to market, to an institution at Bernburg where "Action 14 f 13" was applied. This often was done by the injection of phenol or gasoline into the bloodstream, causing immediate death. After the extermination, the victim's personal effects, including the gold in his teeth, were shipped back to the concentration camp, and a report of "death from natural causes" was made out. This program was also extensively carried out directly in the concentration camps by the camp physicians.

TREATMENT OF CONCENTRATION CAMP PRISONERS

The only interest which the SS and the Reich had in concentration camp inmates was as productive units. They were regarded as so many machines, not as human beings. The only concern with the collapse or death of an inmate was with the loss of a productive laborer. Their arrogant attitude that all non-Germans were subhumans made them wholly indifferent to the fate of those whose right to live out their lives was as sacred as that of any German. This attitude was epitomized by Himmler when he said:

"Whether ten thousand Russian females fall down from exhaustion while digging an antitank ditch interests me only in so far as the antitank ditch for Germany is finished."

And later, at Posen [Poznan], in October 1943, he said:

"At that time we did not value the mass of humanity as we value it today, as raw material, as labor. What, after all, thinking in terms of generations, is not to be regretted, but is now deplorable by reason of the loss of labor, is that the prisoners died in tens and hundreds of thousands of exhaustion and hunger."

When grinders or lathes broke down under hard use, they were scrapped; when inmates collapsed from exhaustion or hunger, they were shot or gassed. There was nothing incongruous in this to the twisted Nazi psychology. They talked and wrote frankly and volubly about it. True, there were some who professed a humanitarian interest in the welfare and comfort of the inmates, and who made some effort to alleviate their intolerable condition, but they still

kept them hard at work. Tasks were found even for the bedridden, while they awaited their turn at the gas chambers. The ghastly story of Germany's mistreatment of the millions of slaves who filled her concentration camps to bursting—the endless hours of exhausting labor, the beatings and killings, the starvation, the degradation—this has become stale from retelling. That's the pity of it. It can be so soon forgotten. But let it be recorded here once more, for generations unborn to read and ponder, that millions of human beings between 1939 and 1945 were cast into slavery and treated with inhuman cruelty by a nation whose only excuse was economic need—the Nazi creed of “the state above humanity.”

The story has come to the Tribunal from the lips of witnesses who personally experienced the horrors of the concentration camps—

Victor Abend—Polish inmate of three camps.

Bernhard Lauber—Polish inmate of two camps.

Jerzy Bielski—Polish inmate of two camps.

Albert Kruse—German inmate at Neuengamme.

Chaim Balizki—Polish inmate of two camps.

Herbert Engler—German inmate of Sachsenhausen.

Eugen Kogon—Austrian inmate of Buchenwald.

Josef Ackerman—German inmate of two camps.

Wolfgang Sanner—German inmate of Mauthausen.

Franz Mis—Yugoslav inmate of Dachau.

Helmut Bickel—German inmate of two camps.

We have had proof from camp commanders and physicians—

Karl Kahr—doctor at Dachau, Buchenwald, and Nordhausen.

Otto Barnewald—administrative chief at Mauthausen, Neuengamme, and Buchenwald.

Hermann Pister—commandant at Buchenwald.

Gerhard Schiedlausky—doctor at Mauthausen, Natzweiler, and Buchenwald.

Max Pauly—commandant at Neuengamme.

Rudolf Hoess—commandant at Auschwitz.

Philipp Grimm—commandant at Buchenwald.

We have seen the motion pictures of the frightful conditions in some of the camps when they were captured by the Allies—conditions so ghastly that they defy description. The proof is overwhelming that in the administration of the concentration camps the German war machine, and first and foremost the SS, resorted to practices which would shame the most primitive race of savage barbarians. All the instincts of human decency which distinguished men from beasts were forgotten, and the law of the jungle took command. If there is such a thing as a crime against humanity, here we have it repeated a million times over.

TREATMENT OF THE JEWS

This disgraceful chapter in the history of Germany has been vividly portrayed in the judgment of the International Military Tribunal (*pp. 247-253 and 303, Official Edition*). Nothing can be added to that comprehensive finding of facts, in which this Tribunal completely concurs. From it we see the unholy spectacle of six million human beings deliberately exterminated by a civilized state whose only indictment was that its victims had been born in the wrong part of the world of forbears whom the murderers detested. Never before in history has man's inhumanity to man reached such depths. Had Germany rested content with the exclusion of Jews from her own territory, with denying them German citizenship, with excluding them from public office, or any like domestic regulation, no other nation could have been heard to complain. But such prejudice and hatred, once fanned into flame, is difficult to control. And so, when the Nuernberg decrees against the Jews were pronounced, the fuse was lighted and soon the program of world-wide extermination of Jews was launched. Had Germany not been checked, one wonders what race, or creed, or nation would next have been branded as subhuman and marked for extermination.

In his own affidavit of 1 April 1947 (*NO-2616, Pros. Ex. 523*), Pohl states:

"The liquidation of Jews in the Auschwitz concentration camp in the years 1942 and 1943, when Rudolf Hoess was commander, was known to me through Himmler's speech, and I myself also saw the gas chambers and the crematorium in Auschwitz in the summer of 1944."

The most lurid descriptions of the Jewish extermination program are found in the reports of German officers themselves, in which, it can be assumed, the cruelties and atrocities are not exaggerated. Major General of Police Katzmann, reporting with evident pride in June 1943 on progress in murder in Galicia, writes:

"I report that the District of Galicia with the exception of those Jews in the camps under the control of the SS and Police is free from Jews. Jews still caught in small numbers are given special treatment by the competent detachments of police.

"Up to June 1943, 434,329 Jews have been evacuated. 21,156 are still in concentration camps. This number is being reduced 'currently.'

"Since we received more and more alarming reports on the Jews becoming armed in an ever increasing manner, we started during the last fortnight in June 1943 an action throughout the whole of the district of Galicia with the intent to use strongest measures to destroy the Jewish gangsterdom. Special measures

were found necessary during the action to dissolve the ghetto in Lwow [Lvov] where the dugouts mentioned above had been established. Here we had to act brutally from the beginning, in order to avoid losses on our side; we had to blow up or to burn down several houses. On this occasion the surprising fact arose that we were able to catch about 20,000 Jews instead of 12,000 Jews who had registered. We had to pull at least 3,000 Jewish corpses out of every kind of hiding place; they had committed suicide by taking poison."

The "special treatment" referred to, means slaughter on the spot. The periodic reports of Stroop, SS Brigadefuehrer and brigadier general of police, who was charged with the destruction of the Warsaw ghetto, portrayed an astounding adventure in wholesale murder and robbery, ending with the terse statement, "There is no Jewish ghetto in Warsaw any more." The action terminated, he says, by blowing up the Warsaw synagogue. He then submits an inventory of his victims: 56,065 Jews exterminated plus an estimated 5,000 to 6,000 destroyed by being blown up or dying in burning buildings, 4,400,000 Zlotys (Polish units of currency) seized and counted, with five to six million more uncounted. Also gold and paper money and large amounts of jewelry are listed. What strange mental twist induces this man to constantly refer to the inmates of the ghetto as "bandits"? The German inspector of armament in the Ukraine reports in December 1941:

"* * * later specially detached formations of the police executed a planned shooting of Jews. It was done entirely in public * * * and in many instances with members of the armed forces taking part voluntarily. The way these actions, which included men, old men, women, and children of all ages, were carried out was horrible. So far about fifteen to twenty thousand Jews have been executed in the part of the Ukraine belonging to the Reich."

In October 1941, Reich Commissioner Carl for the territory of Slutsk, reports:

"The town itself offered a picture of horror during the action. With indescribable brutality * * * the Jewish people were taken out of their dwellings and herded together. Everywhere in the town, shots were to be heard, and in different streets the corpses of shot Jews accumulated. * * * The police battalion has looted during the action in an unheard of manner * * *. Everything of use such as boots, leather, cloth, gold, and other valuables has been taken away."

The Tribunal is quite willing to accept these statements of these high-ranking German officers, who were eye-witnesses, as conclusive proof of the facts related.

LOOTING OF PUBLIC AND PRIVATE PROPERTY

The story of systematic pillage of occupied countries is related in the judgment of the International Military Tribunal (*pp. 238-243, Official Edition*), which this Tribunal adopts as findings of fact in this case. It is a tale of ruthless depravity unequalled in history. It was not confined to looting by individuals or isolated detachments. It was the carrying out of a general military policy, announced by the top command at the outset of the war. As early as October 1939, Goering issued the following directive:

“The task for the economic treatment of the various administrative regions is different, depending on whether the country which is involved will be incorporated politically into the German Reich, or whether we will deal with the Government General, which in all probability will not be made a part of Germany. In the first mentioned territories, the * * * safeguarding of all their productive facilities and supplies must be aimed at, as well as a complete incorporation into the greater German economic system, at the earliest possible time. On the other hand, there must be removed from the territories of the Government General all raw materials, scrap materials, machines, etc., which are of use for the German war economy. Enterprises which are not absolutely necessary for the meager maintenance of the naked existence of the population must be transferred to Germany. * * *”

In pursuance of this policy of deliberate plunder, Poland, the Ukraine, and the occupied parts of Russia were stripped of agricultural supplies, food, raw materials, manufactured articles and such machinery as could not be used for German purposes where it stood. Obviously, this left large numbers of the population of these countries to starve, a fact which did not concern the German forces in the least. Alfred Rosenberg, Reich Minister for the occupied Eastern territories, bluntly stated in 1941 that the produce of Southern Russian and the Northern Caucasus should be taken to the Reich to feed the German people. He said:

“We see absolutely no reason for any obligation on our part to feed also the Russian people with the products of that surplus territory. We know that this is a harsh necessity, bare of any feelings.”

To call such inhuman policy, “a harsh necessity,” is the acme of understatement. It was deliberate murder by starvation, nothing less. To show that the policy of plunder was not prompted by economic needs alone or the necessity of supplying the German Army and population with necessities, we find that churches, libraries, art galleries, and museums, not only in the East but in

France, Belgium, and Holland, were systematically looted of their treasures. This thievery was ordered, as the decree of Himmler put it, "for the strengthening of Germanism." The connection between the avowed purpose and the crime is not entirely clear. The experience of Prince Max Lobkowitz of Bohemia is typical. In his affidavit (*NO-4942, Pros. Ex. 733*) he states:

"I am the owner of landed property, situated in several districts of Bohemia. * * * Over two-thirds of this property came under German rule in October 1938 as a result of the occupation by the Germans after Munich.

"The rest of my property, including my chief residence at Rondnice and my house at Prague, came under German rule in March 1939, just after I had escaped with my family (wife and three sons) to London.

"I remained in the Czechoslovak diplomatic service, which I had entered in 1920 in London and during the war was appointed first Minister and later Ambassador to the Court of St. James. In February 1947, I was transferred from London to the Ministry of Foreign Affairs at Prague, to which I am attached now.

"The whole of my property was confiscated by the Germans.

"This confiscation included farm land, forests, vineyards, etc., as well as natural mineral spring, breweries, saw mills and several large houses, with old family collections (over 1,000 pictures, furniture, a library of over 100,000 volumes, historical archives, etc.)."

ACTION REINHARDT

The extermination and deportation of the Jews in the East produced a vast amount of valuable property, both real and personal, which the Reich was quick to recognize and seize. To marshal these resources, the Action Reinhardt was instituted, named approximately enough, for Reinhard Heydrich, formerly chief of the Security Police and SD, who met his death—and this, too, appropriately enough—in Czechoslovakia in 1942. The purpose of the action was to gather into the Reich all the Jewish manpower and wealth which could be reached. It was an ambitious and profitable undertaking for Germany. The Jews themselves were herded into concentration camps as slaves and their entire worldly possessions confiscated. The real property, where possible, was put to German use (largely through the WVHA agency of OSTI) and the movable property was shipped to WVHA, where it was inventoried, appraised, and distributed through prescribed

channels. The thoroughness of this program of looting is evidenced by the articles listed: featherbeds, quilts, blankets, woolen yardage, shawls, umbrellas, canes, thermos bottles, flasks, baby carriages, combs, handbags, belts, pipes, sun glasses, mirrors, table silver, luggage, linens, pillows, eye glasses, furs, watches, clocks, and jewelry. Everything that could be lifted was moved. The defendant Frank listed as received up to 30 April 1943, 94,000 men's watches, 33,000 women's watches, and 25,000 fountain pens. Currency and precious metals seized reached a total value of 60,000,000 Reichsmarks. About 2,000 carloads of textiles reached Germany as a result of this plunder, and in all a grand total of over 100 million Reichsmarks in personal property was thus acquired. When Jews died in concentration camps, additional loot became available. The clothing was stripped from their bodies and, after being carefully searched for hidden valuables and the distinguishing Jewish Star removed, was distributed to still living inmates or to German civilians. Camp commandants were cautioned not to ship clothing which was stained with blood or showed bullet holes. To complete the desecration, the hair was shorn from the heads of the dead (one report showed a carload of 3,000 kilograms) and all the dental gold was extracted and deposited through WVHA in the vaults of the Reich Bank. It was ordered by the defendant Frank that all property originating from Action Reinhardt be called, "goods originating from thefts, receiving of stolen goods, and hoarded goods." In the true sense, this description is more accurate than Frank intended.

In the *Southern German Legal Gazette*, March 1947, crimes against humanity are defined as acts involving "cruelty against human life, degradation of the dignity of man or destruction of human civilization." The Tribunal is quite content to use this German concept as a standard in deciding whether or not the facts heretofore found constitute crimes against humanity. Only one conclusion is possible. These facts establish beyond a reasonable doubt the wholesale commission of both war crimes and crimes against humanity. It next becomes necessary to determine to what extent, if any, the several defendants are criminally responsible therefore, by reason of actual perpetration, participation, or taking a consenting part therein.

A defense which has been almost universally advanced is that all the criminal acts of the Reich were conducted under a cloak of secrecy which prevented the defendants from knowing about them. Hitler's famous secrecy order has been offered by nearly every defendant. It has been urged that there was strict censorship of the press, that listening to foreign broadcasts was prohibited, that concentration camp prisoners were required upon

their release to be sworn to secrecy as to events which they had observed or experienced, and that the German people generally were kept in complete ignorance of what was going on. All these facts are true. But in the very nature of things, it was impossible to maintain complete secrecy or anything like it. It was impossible to keep hidden from public view the huge transports which carried the slave laborers from the East to the concentration camps. It was impossible to keep secret the public demonstrations against the Jews. Streicher's infamous, "Der Stuermer," had a circulation of 600,000 copies. Himmler spoke openly about "the final solution of the Jewish problem" at Poznan, Krakow [Kharkov], and Metz. When prisoners were liberated from concentration camps, it is impossible to think that they maintained the complete secrecy to which they were bound. Soldiers returning on leave from Poland, Russia, and the Ukraine must have talked to some extent. The pall of smoke from the crematory at Auschwitz could not be kept hidden. In spite of decrees, foreign broadcasts were heard. The systematic murder of millions of human beings, extending over 5 years, could not by reason of its very magnitude be kept secret. It is undoubtedly true that millions of obscure and unimportant German citizens had no way of knowing and did not know of the horrible wrongs which were being perpetrated. But if high-ranking officers of the SS, whose daily tasks for years brought them into immediate contact with the operation of the camps, claim that they had no suspicion of the events occurring within the barbed wire, that defense cannot be believed. Undoubtedly some knew more than others, and some limited few knew nothing. With this conclusion Pohl himself agrees. In his interrogation of 13 June 1946 (*NO-4728, Pros. Ex. 693*), Pohl was confronted by Kaltenbrunner's testimony before the International Military Tribunal that, "there were only a handful of people in the WVHA who had any control or knew anything about concentration camps," to which Pohl commented:

"Well, that is complete nonsense. I described to you how these were handled in the WVHA. As for instance, in the case of the use of textiles and turning in of valuables, and also from Gluecks and Loerner right on down to the last little clerk, must have known what went on in the concentration camps, and it is complete nonsense for him to speak of just a handful of men."

In Liebehenschel's letter of 25 February 1943, written as chief of Amtsgruppe D [Amt D I] of the WVHA and addressed to all the concentration camp commanders, he states that the population in the East is beginning to be startled by the frequent casualties in the concentration camps. Apparently, in some areas at least, the secret was beginning to leak out.

The Tribunal is convinced that the ignorance professed by many of the defendants is the ignorance of convenience.

At the outset of the testimony, the Tribunal realized the necessity of guarding against assuming criminality, or even culpable responsibility, solely from the official titles which the several defendants held. It became apparent that, in conformity with the ancient German passion for high-sounding titles, many purely ministerial officers, performing perfunctory or even menial tasks, were designated by sonorous names which did not necessarily connote substantial power or authority. In some instances minor officers, engaged in purely routine tasks, were designated on the elaborate tables of organization by lengthy and awe-inspiring titles, which upon closer inspection were found to cover nothing more than a few desks in a remote corner. The Tribunal has been especially careful to discover and analyze the actual power and authority of the several defendants, and the manner and extent to which they were exercised, without permitting itself to be unduly impressed by the official designations on letterheads or office doors.

OSWALD POHL

Prior to 1934, defendant Pohl was chief disbursing officer of the German Navy. On a visit by Himmler to the naval base at Kiel in 1934, he met Pohl and persuaded him to sever his connection with the navy and assume an administrative position with the SS Main Office. Pohl had been a member of the National Socialist Party since 1926 and of the SA since 1929. At Himmler's insistence he became chief of the administrative department of the SS Central Office in February 1934. In 1939 that office was organized into two Main Offices under the names, "Main Office Budget and Buildings," and, "Main Office Administration and Economy." These offices were in complete charge of all administrative matters affecting the fast growing SS. On 1 February 1942, these two Main Offices were united and renamed, "SS [Economic] Administrative Main Office," known as, "WVHA," to which was also added the Main Office of Inspector of Concentration Camps, which became Amtsgruppe D.

For 11 years Pohl was continuously the administrative head of the entire SS organization. His only superior within his field was Himmler. At the beginning of the war he became a member of the "Freundeskreis" or, "Circle of Himmler's Friends," a small select group of intimates who enjoyed Himmler's confidence. As chief of the WVHA he was in absolute control of an organization composed of 5 Amtsgruppen and 28 Aemter, with a personnel at

the peak of over 1,700 employees. He not only directed and administered the fiscal affairs of the entire SS but he was in charge of the administrative aspects of all concentration camps and was head of the tremendous industrial empire which the SS built up under Amtsgruppe W. It is obvious that his duties were not perfunctory or formal but that he was an experienced, active, and dominant head of one of the largest branches of the German military machine. Although he had no actual military duties in the field, he attained the military rank of Obergruppenfuehrer, which is equivalent to the rank of lieutenant general.

CONCENTRATION CAMPS

Three months after the outbreak of the war, Himmler ordered that "the supervision of the economic matters of these institutions and their application to work is the responsibility of SS Obergruppenfuehrer Pohl." The change in Reich policy by which concentration camps were converted from places of mere detention to places of productive free labor was announced in April 1942, and the ruthless plan of extracting from concentration camp inmates their last ounce of energy in furtherance of the Reich's war plans became operative. It became Pohl's task to implement this policy and to make it work effectively for the Reich. Neither Pohl nor the WVHA had anything to do with the commitment of inmates to concentration camps nor with their release, except by death. Neither Pohl nor any other member of the WVHA had authority to order the execution of concentration camp prisoners. Nor is there any evidence that he or they attempted to exercise any such prerogative. The order for executions originated between the Secret State Police and Himmler personally. The greater part of the task of procuring inmates fell upon the Security Police and the SD, although it is quite evident that the SS and the Wehrmacht in the field rendered no little assistance. Pohl's jurisdiction began when the inmates reached the gates of the concentration camps. Pohl has contended that the inclusion in WVHA of Amtsgruppe D, which was concerned exclusively with concentration camp matters, was more a formal than an actual subordination; and that this Amtsgruppe, under Gluecks and Maurer, continued to operate more or less independently of Pohl, taking most of their orders directly from Himmler. It is probably true to some degree that the heads of Amtsgruppe D, which had formerly been an SS Main Office, resented somewhat their subordination to Pohl and continued to look to Himmler for orders. The fact remains, however, that Pohl as head of the WVHA was the superior of Gluecks and

Maurer and was in a position to exercise and did exercise substantial supervision and control over Amtsgruppe D. Pohl himself, in his affidavit of April 3, 1947 (NO-2736, Pros. Ex. 525), states:

“* * * Gluecks was chief of Amtsgruppe D and was subordinate to me in my capacity as Main Office Chief. Thus I became authority for the administration of concentration camps within the sphere of activity of the WVHA. The camp commanders were nominated by the SS Personnel Office on my recommendation and appointed by me.”

As chief judicial officer of the SS, he had full disciplinary power over all guards who served in the concentration camps. All judgments arising in disciplinary proceedings against SS guards were submitted to Pohl for modification or confirmation.

One of the purposes in organizing the WVHA was to centralize and concentrate administrative authority and to reduce the number of independent administrative offices. In view of the fact that the SS enterprises administered under Amtsgruppe W were manned by concentration camp inmates and in many instances operated in concentration camps themselves, it was inevitable that the administrative affairs of the camps should be placed in the hands of Pohl, who was also the head of the enterprises. The camps and the enterprises were so inseparable that a unified control of both had to be fixed, and this control was imposed on Pohl.

Armed with this power, Pohl energetically set about driving the inmates to the limit of endurance in order to further the economic and war efforts of the Reich. In April 1942, he wrote to Himmler:

“The custody of prisoners for the sole reasons of security, education, or prevention is no longer the main consideration. The mobilization of all prisoners who are fit for work, for purposes of the war now, *and for purposes of construction in the forthcoming peace*, come to the foreground more and more.”

In the affidavit of Philipp Grimm (NO-2126, Pros. Ex. 298), who in 1942 was labor assignment officer at Sachsenhausen and later was transferred to office D II of WVHA, it is stated:

“Through my activity as labor assignment officer I know that in 1942 an order by Pohl was sent to the concentration camps, which authorized the camp commanders to retain prisoners who had been released for discharge by the Reich Security Main Office, but were important for the organization of labor in the camp. The duration of this illegal imprisonment could be extended to the end of the war.”

To the very end of the war, Pohl kept a tight rein on all aspects of concentration camp administration. He constantly fought for

longer hours, more intense effort, more production, selection of specialized skills, less loafing, and more strict supervision. As of July 1944 there were 20 concentration camps and 165 labor camps supervised by his Main Office. There was no phase of the administration of these camps in which he was not intensely interested, and this interest manifested itself at times in the smallest details. In some instances he recommended appointments and transfers of camp commanders, who were the slave drivers in the camps. In January 1943, in a letter to all camp commanders, he directed that the working hours of prisoners be kept at 11 hours per day during the winter, 6 days per week, and a half day on Sunday. In May 1941, when he found that half of a shipment of Jews from Hungary were women, he asked Himmler's approval for putting them to work on construction projects. Needless to say, Himmler consented. In December 1943, Pohl wrote to all camp commanders, complaining that SS guards were not urging prisoners to work sufficiently, stating, "Please instruct detachment leaders every Monday on this obvious duty of the guards."

In 1942, Gluecks, chief of Amtsgruppe D, in writing to the camp commanders, stated that Pohl had ordered that punishment by beating was to be executed by prisoners in concentration camps for men, but that it was forbidden to have foreign prisoners execute the punishment on German prisoners. This letter is significant because it recognizes Pohl's superior authority to issue such an order. If Gluecks enjoyed the degree of independence which Pohl attributes to him, he would have issued this order in person without attributing it to Pohl. On several occasions Pohl's interest led him to inspect concentration camps in person. He visited Ravensbrueck, Auschwitz, Dachau, and Oranienburg. During his visit to Auschwitz in 1943, Pohl was shown the plans for the enlargement of the camp, including the construction of four new crematories with modern gas chambers. His solicitude for the inmates led him to order that specially hardworking prisoners be granted additional rations of food and tobacco and permission to patronize the camp brothel. For this last service Pohl fixed the charge and prescribed the method of dividing the income between the female inmates, the woman manager, and the WVHA. He also held periodic conferences with concentration camp commanders in Berlin. It was part of his duty to select new sites for concentration camps and to determine their economic potentialities. When a new camp was proposed, he determined its size, capacity, and the number of inmates which would be utilized in it.

There is no need to further elaborate upon the proof on this point although much more could be adduced. From all the evidence, it becomes clear to the Tribunal that Pohl at all times had an

intimate and detailed knowledge of happenings in any way connected with the concentration camps. He made it his special business to know these facts. It is futile for him to say that he was not aware of the crematories when the plans were drawn and the construction supervised in his own organization and he visited the camps where they were installed. Nearly every Amt chief testified that he reported frequently to Pohl, in person, concerning events and problems arising in his immediate sphere. According to his own testimony and correspondence, he kept a running inventory, classified as to nationalities, of the labor supply of inmates in every camp. He knew how many prisoners died; he knew how many were unfit for work; and he knew what mass transfers were made from camp to camp. There was doubtless no other one person in Germany who knew as much about all the details of the concentration camps as Pohl. At least this much can be said and cannot be denied, that Pohl knew that hundreds of thousands of men and women had been cast into concentration camps and compelled to work, without remuneration and under the most rigid confinement, for the country which had devastated their homelands and abducted them into bondage. When these slaves died from exhaustion, starvation, or from the abuse of the SS overseers, Pohl cannot escape the fact that he was the administrative head of the agency which brought about these tragedies. His was more than a mere consenting part. It was active participation. Leaving all other considerations aside, Pohl stands before this Tribunal as an admitted slave driver on a scale never before known. On this count if no other he is guilty of direct participation in a war crime and a crime against humanity.

The mistreatment of prisoners of war, especially Russian and Polish prisoners, in the concentration camps, must also be laid at the door of Pohl. On 30 September 1944, Martin Bormann, head of the Party Chancellory, sent out an order from Hitler, which said in part:

“The mobilization of labor of the prisoners of war will be organized with the present labor mobilization office in joint action between SS Obergruppenfuehrer Berger and SS Obergruppenfuehrer Pohl.”

On 28 September 1944, Himmler ordered that the question of the labor allocation of prisoners of war was to be submitted to Pohl. Not since the Roman Caesars brought back their prisoners of war, chained to their chariot wheels, has such inhuman treatment been accorded captives in battle as is shown by the record in this case. They, too, were simply grist for Germany's mill. By her treatment of these prisoners, Germany made the honorable profession of a soldier a by-word and a slur.

DESTRUCTION OF THE WARSAW GHETTO

In the fall of 1942, Himmler's plans for the complete subjugation of Poland reached a pinnacle. The Jewish ghetto at Warsaw covered a total area of approximately 320 hectares, or 800 acres. It comprised a large residential area and, in addition, housed a great number of industrial enterprises, principally textile and fur manufacturing plants. The ghetto had a population of nearly 60,000 persons. In October, Himmler ordered that the entire Jewish population of the ghetto was to be gathered together in concentration camps in Warsaw and Lublin to be used as an immense labor pool for armament purposes. After the round-up was completed, the Jews were to be deported to large concentration camps in the East and Polish labor substituted in the Warsaw industries. Himmler added: "Of course, there, too, the Jews shall someday disappear in accordance with the Fuehrer's wishes." All private Jewish firms were to be eliminated and no Jew was to be employed in private industry. This order raised a strong protest from the armament firms in Warsaw, in which a large number of Jews were employed, but Himmler was obdurate and insisted on the letter of his order being carried out. The Jewish residents of the ghetto, however, resisted deportation vigorously, and a pitched battle, lasting over a week, was necessary to uproot them. In February 1943, Himmler directed that after the removal of the concentration camp the ghetto be completely demolished. In his order he stated:

"A master plan for the pulling down of the ghetto has to be submitted to me. It has to be accomplished in any case that the living space, which accommodated 500,000 subhumans and was never suitable for Germans, will completely disappear, and that the city of Warsaw, with its one million inhabitants, will be reduced in size, having always been a dangerous center of rebellion."

This gigantic task of destruction and deportation was committed to Pohl as chief of the WVHA. Himmler directed that the "city center of the former ghetto is to be flattened completely and every cellar and every canal is to be filled in. After the work is finished, the area is to be covered up with earth, and a large park is to be planted."

By an order dated 23 June 1943, addressed to the Higher SS and Police Leader in the East and to Pohl, Himmler ordered the erection of a concentration camp in the vicinity of Riga, to which the largest possible number of the male Jews were to be transferred. Surplus Jews from the ghetto were to be evacuated to the East, which meant ultimate starvation or extermination. In the

summer of 1943, Pohl set to work to carry out Himmler's order. The concentration camp in the Warsaw ghetto was established and Pohl appointed Goecke, a veteran of Mauthausen, as commandant. Pohl reported to Himmler that at first there were only 300 prisoners in the camp but that this number would be increased as speedily as possible. In October, Pohl reported that Amtsgruppe C of the WVHA had been charged with the technical execution of the demolition order and Amtsgruppe D with the placing of the prisoners. Pohl engaged four private contracting firms, who guaranteed to pull down and remove 4,500 cubic meters daily. He advised that 1,500 prisoners were being used as laborers at the end of October, but that upon securing additional mechanical equipment 2,000 more prisoners would be needed at once. In February 1944, Pohl reported that 3,750,000 cubic meters of buildings had been demolished, and that 2,040 prisoners were being used. By April, 6,750,000 cubic meters had been "pulled down and blasted," and 2,180 prisoners were being used. By June, 10,000,000 cubic meters had been destroyed and the concentration camp had been completed. Thus was accomplished the most complete task of destruction of a modern city since Carthage met its fate many centuries ago, and in this nefarious undertaking Pohl stood hand in glove with Himmler and Stroop in accomplishing the task of total destruction. This was not a city taken in battle; it had long before been captured and occupied by the German armed forces. It was the deliberate and intentional destruction of a large modern city and its entire civilian population. It was wholesale **murder**, pillage, thievery, and looting, and Pohl's part in accomplishing this abominable project is recorded in his own handwriting. He cannot free himself from his share in Brigadefuehrer Stroop's shameful boast—"The total number of Jews dealt with is 56,065, including Jews caught, and Jews whose extermination can be proved."

MEDICAL EXPERIMENTS

Pohl's connection with the medical experiments, which have already been described, consisted only in supplying the subjects from the inmates of the concentration camps. It is not claimed that he actually participated in the performance of the experiments or did anything more than make them possible by supplying victims from his inmate pool. Here, again, his own writings convict him. In his own affidavit, dated 23 June 1946 (*NO-065, Pros. Ex. 183*), Pohl outlines his part in these experiments. He states that he was aware that experiments were being performed from April 1942 until the end of 1944; that Dr. Schilling continually asked for prisoners, but that he does not know the exact number that were sent; that at Himmler's request prisoners were

sent to Dachau for the purpose of experimentation; that he accompanied Himmler to Dachau on one occasion and observed a high-altitude experiment; he received reports from Dr. Lolling of the number of prisoners used in experiments, totalling 350 to 400; he knew of Dr. Clauberg's experiments in sterilization; he knew that about 40 different experiments were performed. He states (*NO-407, Pros. Ex. 184*):

"The inmates were simply picked out and assigned for the experiments. Sometimes Himmler specified that inmates condemned to death should be used, but this was not always the case. There was no requirement that the subjects volunteer. We conducted no campaigns in the camp for volunteers; if these doctors were experimenting on volunteers, they need not have gone to Himmler and the concentration camps. It was for the very reason that they could not get volunteer subjects * * * that they went to Himmler and got him to consent to experiments on concentration camp inmates. This was a fact well known to anyone connected with those experiments. * * * In accordance with Himmler's racial policies, non-German nationals were essentially used in preference to German nationals."

Further proof of Pohl's connection with these outrageous experiments would seem unnecessary, but there is plenty in addition. The affidavit of Rudolf Brandt, Himmler's adjutant, states:

"Subjects for experiments were selected by Pohl. Himmler or I used to inform Pohl that a certain number of prisoners should be supplied for a particular experiment. Certain groups were usually specified."

Concerning the warming experiments at Auschwitz and Dachau, Himmler wrote to Dr. Rascher: "I am sending this letter to Pohl, whom I request to order the execution of your experiments."

Himmler wrote to Dr. Grawitz approving the use of eight Jews of the Polish Resistance Movement for experiments in epidemic jaundice at Auschwitz and sent a copy to Pohl, with the notation—"Request that you duly note."

Dr. Sievers wrote to Pohl as follows:

"In compliance with our request of 30 September 1943, you approved the carrying out of experiments for the production of a new type of spotted fever vaccine, and for this purpose transferred 100 suitable prisoners to Natzweiler."

Pohl was particularly interested in the production of Schweigrohr, a plant to be used in producing wholesale sterilization. Pohl wrote to Himmler in June 1942, stating that experiments with this plant were at a standstill because the plant was obtainable only from North America and the proposed process for growing the plant in Germany in hot houses would not yield sufficient drug

to permit large-scale experiments. Continuing, Pohl stated that he had informed Dr. Koch that he would attempt to obtain permission to build a large hot house for cultivation of the plant. Pohl arranged to put Dr. Lolling, whom he refers to as "chief of my office D III," in touch with a Vienna biologist for further study, looking toward the large-scale production of Schweigrohr. Rudolf Brandt sent to Dr. Clauberg Himmler's order to first confer with Pohl and then go to Ravensbrueck to pursue the sterilization program on Jewesses in that camp. Brandt inquires how long it would take to sterilize a thousand Jewesses by X-ray without their knowing it. Further proof could be accumulated, but it is unnecessary. Pohl's participation in the medical experiments was intimate and direct, and he must share the responsibility for their criminality.

The Tribunal finds that the food experiments in which Pohl was greatly interested did not involve the use of poisons but were simply legitimate experiments in the nutritional values of food. As such, of course, they had no element of criminality.

ACTION REINHARDT

This action, as has been indicated, involved a plan for draining the Eastern occupied countries of their last vestige of wealth. It had the two-fold purpose of reducing the East to abject poverty so that starvation would be the inevitable result to the population and, at the same time, filling the Reich Treasury. It was a program of deliberate wholesale brigandage which was, at the same time, an added aspect of the extermination program.

In the execution of this program, Pohl's WVHA played a major role. His organization was the clearing house for all the booty. All of the stolen property was routed through WVHA, where it was inventoried, appraised, and distributed. That Pohl knew of the criminal source of this property is evidenced by his letter of 9 February 1944, to Maurer, directing that valuables found in clothing were to be delivered in sealed boxes to Amtsgruppe D, and directing further, that nothing in the shipment should reveal its origin. The money which was stolen was secreted in the Reich Bank under the assumed name of Max Heiliger. On 4 July 1944, Pohl, in a communication to the Main Office chiefs, announced the names of officers responsible for the property seized in several areas, and stated: "As a matter of principle, it has to be kept in mind that the entire Jewish property is to be incorporated into the Reich property." Property from the Action Reinhardt which had been delivered to the Reich Main Treasury was kept in a separate account, appropriately called, "Department Booty."

Moved by the Christian spirit of Christmas, Pohl on 6 November

1943, wrote to Himmler, stating that he intended to make gifts of watches and fountain pens to SS units, and asked whether the gifts should be made in Himmler's name. Himmler approved Pohl's generous plan and added that 15,000 ladies' watches should be distributed to Germans coming from Russia for resettlement. Pohl thought it would be a generous gesture to distribute 3,000 clocks which had been repaired to guards at the concentration camps and to Berlin inhabitants who had been bombed. As an after-thought, he suggested to Himmler that 16 extra-fine gold precision wrist watches, valued at 300 Reichsmarks each, which had been repaired, be distributed among commanders of technical units.

Pohl's own statement as to his knowledge of the operation of Action Reinhardt and of his participation in the distribution of the loot is again quite sufficient. In his affidavit of 2 April 1947 (NO-2714, Pros. Ex. 535), he states that the action was instituted in 1941 or 1942 and was in direct charge of SS Gruppenfuehrer Globocnik; that by Himmler's direction he contacted the president of the Reich Bank to arrange for delivery of the valuables; these transactions were to be carried out in extreme secrecy. Together with Georg Loerner, Frank, and others, he visited the Reich Bank and was shown the accumulated valuables in the bank vaults. "It was never doubted," he said, "that this loot was taken from Jews exterminated in the concentration camps. * * * As I learned in 1943, gold teeth and crowns of inmates of concentration camps were broken out of their mouths after liquidation. This gold was melted down and delivered to the Reich Bank. * * * When I received all the vouchers, setting out the economic assets received, I realized the extent of the operation. I realized that the greatest part of the textile goods listed in these reports had been taken from people who had been violently put to death and that the purpose of the operation had been the extermination of the Jews."

In another affidavit, 15 July 1946 (4045-PS, Pros. Ex. 536), Pohl further indicates his knowledge of, and participation in the ghoulish scramble. The facts stated therein are cumulative and need not be specifically referred to.

The fact that Pohl himself did not actually transport the stolen goods to the Reich or did not himself remove the gold from the teeth of dead inmates, does not exculpate him. This was a broad criminal program, requiring the cooperation of many persons, and Pohl's part was to conserve and account for the loot. Having knowledge of the illegal purposes of the action and of the crimes which accompanied it, his active participation even in the after-phases of the action make him *particeps criminis* in the whole affair.

OSTI [EASTERN INDUSTRY]

Eastern Industries, known as "OSTI," was a running-mate of Action Reinhardt in the so-called final solution of the Jewish problem in the East. OSTI was organized 1 March 1943, and was dissolved one year later. The whole history of this project is clearly described in the report of Johann Sebastian Fischer in a final audit, 21 June 1944 (*NO-1271, Pros. Ex. 491*). It was impossible to completely strip the Eastern territories of all Jewish property. Some because of its nature could not be removed and some could be operated best by the Reich on the spot. To utilize this unremovable property, OSTI was organized, with a capital of 100,000 Reichsmarks. Of this Pohl held 75,000 and defendant Georg Loerner 25,000. Pohl was chairman of the Aufsichtsrat, or supervisory board, of which Georg Loerner was also a member. Globocnik and Dr. Max Horn were the active managers. Fischer describes the corporate purposes as follows: "OSTI had to administer all Jewish property within the territory of the Government General except cash, jewelry, and clothing; and in particular to utilize the manpower of the Jews living in the Government General for tasks benefiting the Reich."

This involved—

(1) Utilization of the working capacity of the Jews by erecting industrial plants in the Government General in connection with the Jewish labor camps.

(2) Taking over commercial enterprises which had previously been maintained by the SS in the Government General.

(3) Taking possession of movable property which was formerly Jewish, especially machines and raw materials. The machines were to be installed in plants and the raw materials to be used.

(4) Utilization of machines, tools, and merchandise formerly Jewish property which had been transferred to non-Jewish ownership.

A partial list of the industries thus administered included a glass works in Wolomin, a peat-cutting plant near Lublin, an iron foundry, a large textile factory, a plant for the manufacture of brushes, and a stone quarry. Globocnik states that the entire manpower was brought together and kept in closed camps into which the manufacture of essential items for war had been transferred. "* * * All together 18 establishments had been built up and still more were to be added. About 52,000 laborers were available."

The project continued as long as the supply of Jewish concentration camp labor was available, but when, due to the exigencies of the war, in the fall of 1943 this labor supply was withdrawn, it was determined to liquidate OSTI, and Dr. Horn was designated as liquidating officer.

As will be observed, OSTI was simply another manifestation of the policy of slave labor and appropriation of private property. Linked with Action Reinhardt, it was the consummation of the Reich plan to leave the occupied Eastern countries as vast stretches of scorched earth. In the OSTI phase of this plan, Pohl had even a more direct connection than he had with Action Reinhardt. Here he was the directing head and the chief executive of the project. As an original incorporator, he was in it from its inception and he actively participated in every phase of it until its liquidation. This being true, he was guilty of war crimes and crimes against humanity.

Under a plan which was perhaps devised to give some semblance of legality to this inherently lawless plan, Pohl was designated as a trustee of the properties seized in the East and operated by OSTI. This was a strange species of trusteeship. All of the interests of the trustee were violently opposed to those of the *cestius qui trustent*. The recognized concept of a trustee is that he stands in the shoes of his beneficiaries and acts for their benefit and in opposition to any encroachment on their rights. Here, however, the trustee was in the service of adverse interests and acted at all times under an impelling motive to serve those interests at the expense of his beneficiaries. Actually, the trusteeship was pure fiction. It cannot be believed that it was ever the plan of the Reich to return any of the confiscated property to its former Jewish owners, most of whom had fled and disappeared, or had been exterminated. The only probative value of this fictitious trusteeship is to furnish another cord to bind Pohl closer to OSTI's criminal purposes.

In an attempt at partial exculpation, Pohl has submitted in evidence (*Pohl 3, Pohl Ex. 2*) a decree, dated 28 February 1933, signed by Reich President von Hindenburg and Chancellor Hitler, suspending the provisions of the Weimar Constitution, which guaranteed personal freedom, freedom of speech and of the press, the right of assembly, privacy of communication, and immunity from search. The Secret State Police were given almost unlimited power over persons and property, independent of any obligations and free from restraint or review. They became the supreme authority of the land. This tyrannical agency was the partner of WVHA in the administration of the concentration camps. Upon the promulgation of this decree, Germany became a police state and the liberty and lives of all German citizens were dependent upon the whims of men like Heydrich and Kaltenbrunner. It is to be assumed that if this is the kind of national government the people of Germany preferred, they were entitled to it. If they consented to surrender their human liberties to a police force, that was their

privilege, and any outsider who intruded could well be told to mind his own affairs. But when the attempt is made to make the provisions of such a decree extra-territorial in their effect and to apply their totalitarian and autocratic police measures to non-Germans and in non-German territory, they thereby invaded the domain of international law, where reason still rules. The Nazi leaders, drunk with power, could abuse and deceive the German people just as long as the German people submitted, but when they extended their tyranny into foreign lands and attempted to justify it by the provisions of local German Law, their arrogance became over-extended and a power superior to Hitler's came into play to stop them.

In recapitulation and upon the findings of fact heretofore made, the Tribunal determines that the defendant Pohl is guilty of war crimes and crimes against humanity, as alleged in counts two and three of the indictment.

COUNT FOUR

The Tribunal finds that the defendant Pohl was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under count four of the indictment.

AUGUST FRANK

This defendant joined the SS as a private on 1 May 1932, and joined the National Socialist Party on 1 January 1933. In 1933, the concentration camp at Dachau had a number of minor industries manned by inmate labor, most of which were concerned with concentration camp maintenance. From 1933 to 1935, this defendant was engaged in minor administrative duties in these comparatively small enterprises. In 1935, at the request of the defendant Pohl, this defendant became SS Administrative Officer of the Special Purpose Troops (SSVT) and of the SS Death Head units, which were charged with the guarding of the concentration camps. His jurisdiction in this second capacity was somewhat limited because Kaindl was the special liaison officer for the Death Head units. In February 1940, this defendant became chief supply officer of the Waffen SS and Death Head units under Pohl, and when the WVHA was organized in 1942, he became Pohl's deputy chief of WVHA and chief of Amtsgruppe A, the administrative Amtsgruppe of WVHA. He served in this capacity until 1 September 1943, when he was permitted to resign to become administrative chief of the Order Police, which terminated his connection

with the WVHA. In this case we are concerned with judging his conduct only between 1 September 1939, and 1 September 1943.

Amtsgruppe A, of which Frank was the chief was the administrative branch of WVHA. It comprised five Aemter, as follows:

Amt A I—office of budgets.

Amt A II—finance and payroll.

Amt A III—legal matters.

Amt A IV—auditing office.

Amt A V—personnel.

Only two specifications in counts two and three of the indictment are involved in the consideration of Frank's case—(1) the administration of concentration camps, and (2) Action Reinhardt.

At the outset it is best to dispel an illusion, which all defendants have tried to create, that the component Aemter and Amtsgruppen in the WVHA were dissociated, isolated, and operated with almost complete independence of each other. The contention of the defendants has been that each Amt occupied a secluded cubicle which was so insulated that it was practically impossible for the members of one Amt or Amtsgruppe to know what was going on in another. This concept runs counter to the whole idea behind the organization of the WVHA, which was to consolidate and unify all the administrative functions of the SS. Not only the underlying plan of the organization but the nature of its functions make this contention entirely incredible. The administration of the concentration camps was a complex and intricate task, which was made further involved by the operation of the industries under Amtsgruppe W. Correlation and coordination were indispensable. Food, clothing, wages, labor supply, raw materials, financing, auditing, personnel, and security—all these were integrated functions, each of which bore an intimate relation to every other. As a comprehensive undertaking, it was a unit. With a personnel at the peak of about 1,700, it was obviously impossible for each person to know exactly what the other was doing, but each person must have known that the entire group was taking some part, great or small, restricted or unlimited, in the main task of administering the fiscal affairs of the SS. For example, the work of Amtsgruppe C in concentration camp construction and maintenance necessarily impinged upon Amtsgruppe A, which provided the money, Amtsgruppe B, which provided the raw material, and Amtsgruppe D, which provided the labor. Again, Amtsgruppe D, which was directly in charge of concentration camps, was dependent upon Amtsgruppe A for money and personnel, upon Amtsgruppe B for food, clothing, and billets, and Amtsgruppe C for construction and maintenance needs. As early as November 1941, Pohl suggested that meetings of all the W office chiefs be held periodically, "to

bring up for discussion all matters of general interest." Accordingly, Maurer issued an invitation to all the chiefs of W offices to attend a meeting 17 November, "in order to discuss questions and matters which concern all Amt chiefs and which can serve as suggestions for them." Georg Loerner, Hohberg, and Volk were present, among others. Again, in September 1943, Pohl called a meeting of W office chiefs, at which defendants Georg Loerner, Baier, Bobermin, Mummenthey, Klein, and Volk were present with others. Pohl announced that the meeting had been called because it had been noticed that following the removal of some of the Amts from Berlin, "regular cooperation between the staff and the offices is not always assured. * * * It is necessary more than ever before to cooperate very closely with the staff."

The isolation for which the defendants contend was in the very nature of things, a myth, and every person in the organization must have known that the WVHA was charged with two tremendous and related tasks—the economic administration of the concentration camps and the operation of the W industries with the labor supply which the camps furnished. Had the various defendants been shrouded in the profound ignorance which each claims, Pohl never could have run the WVHA with anything near the outstanding success which he achieved. The whole organization would simply have fallen apart for lack of cohesion.

What part, then, did the defendant Frank have in this industrial empire—an empire in which the chief problem of industry was adroitly solved by locking its labor supply behind barbed wire and paying it nothing? A man of more limited genius than Pohl could hardly have failed under those circumstances to show a profit.

First of all, Frank must conclusively be convicted of knowledge of and active and direct participation in the slave labor program. It cannot be imagined that he believed that all the inmates of the 20 concentration camps and the 165 labor camps scattered throughout the entire continent of Europe were German nationals, composed of habitual criminals, anti-Nazi and asocial persons, and others whom the Reich for security purposes thought best to imprison. He could not have been ignorant, for example, of Pohl's letter of 26 June 1942, to all Amtsgruppen, stating that the head of every branch office which was provided with prisoners or prisoners of war for work was responsible for the prevention of escape, robbery, and sabotage. He could not have been ignorant (because he himself dictated it) of Pohl's letter of 28 July 1942, to Himmler, discussing the commanders of many of the concentration camps and their qualifications and making recommendations for reassignments, detachments, and promotions. As an in-

corporating partner with Georg Loerner in the leather and textile enterprise at Dachau, with an investment of 10,000 Reichsmarks which he protests came from some unknown source, Frank must have known that by 1 April 1941, 700 inmates of Ravensbrueck were employed. When, in September 1942, Frank wrote to the garrison administrators at Lublin and Auschwitz and directed that the Jewish Star be removed from the garments of deceased inmates, he must have been aware that the concentration camps were not populated exclusively by Germans. His testimony as a witness in his own behalf negatives any such ridiculous inference. It must be concluded, therefore, that Frank knew that the slave labor was being supplied by the concentration camps on a tremendous scale. It must also be conclusively presumed that Frank knew that slavery constituted a crime against humanity.

As to Action Reinhardt, his connection is equally obvious. His counsel protests that "he did not work for the political aims of National Socialism." The answer to this is that he *had* to work for those aims. Germany was a one-party political state; National Socialism was Germany. The Party and the Reich were so inseparable, their aims and purposes were so interwoven, that it was impossible for anyone to have worked for the one without working for the other. It is futile to claim that the program of extermination of the Jews, or the ravaging of the Eastern countries, or the program of enforced slave labor, or the devastation of conquered territory, stemmed from National Socialist policy but not from the Reich. The SS, in which Frank attained the high rank of Obergruppenfuehrer, was a National Socialist agency, and anyone who worked, as Frank did, for 8 years in the higher councils of that agency cannot successfully claim that he was separated from its political activities and purposes.

It is his contention that he first became aware of the Jewish extermination program after hearing Himmler's Poznan speech 4 October 1943, a month after he had left the WVHA. It is his contention that, through the long series of acts relating to the disposition of the proceeds of Action Reinhardt before that date, he acted in the belief that the hundred million Reichsmarks of Jewish property, the 2,000 carloads of textiles, and the staggering amount of other loot arose from Jewish inmates who had died of natural causes and in the ordinary course of events. The very magnitude of the inventory would have put a person much less naive than Frank on inquiry, and of course, Frank's designation of the loot as "Jewish concealed and stolen goods," indicates a resort to secrecy and subterfuge which is entirely in conflict with his profession of innocent ignorance. But even if we were to give Frank's contention full faith and credit (which we do not), we

come to the inescapable conclusion that if he was not a confederate in murder he certainly was in larceny. By what process of law or reason did the Reich become entitled to one hundred million Reichsmarks' worth of personal property owned by persons whom they had enslaved and who died, even from natural causes, in their servitude? Robbing the dead, even without the added offense of killing, is and always has been a crime. And when it is organized, planned, and carried out on a hundred-million-mark scale, it becomes an aggravated crime, and anyone who takes part in it is a criminal.

It is Frank's contention that he did not know and had no means of knowing of the Jewish extermination program or that the vast amount of property accruing from Action Reinhardt resulted from the violent killing of Jews in concentration camps. He states that he believed that the property came from Jews who had died from natural causes, the number of whom was greatly increased by epidemics, or from stock piles of merchandise seized during the invasion of the Eastern countries. Both the amount and the nature of the goods seized make the acceptance of such a contention impossible. In a top secret communication to the chiefs of administration at Lublin and Auschwitz, dated 26 September 1942 (*NO-724, Pros. Ex. 472*), a year before Frank left the WVHA, he speaks of the utilization of the property "of the evacuated Jews," and as has been noted, refers to the goods as "originating from thefts, receiving of stolen goods and hoarded goods." He proceeds to specify the manner of distribution of the confiscated property, referring to the various articles by name. These are some of the articles which he claims to have assumed were seized from Jews who died from natural causes in concentration camps: alarm clocks, fountain pens and mechanical pencils, electric razors, flashlights, feather beds, quilts, umbrellas, walking sticks, thermos jugs, baby carriages, table silver, bed and table linen, and furs. It is difficult to imagine a convoy of Jews from the East, packed so tightly into freight cars that many died, carrying with them for their comfort and convenience such items as electric razors, feather beds, umbrellas, thermos jugs, and baby carriages. It is equally incredible that they would be able to keep such articles in the concentration camps until they died of natural causes. It is fair to assume that the prisoners who froze to death or who died from exhaustion and exposure were not equipped with feather beds, quilts, and woolen blankets. Nor can it be believed that before being herded off to Auschwitz or Lublin they were given an opportunity to gather up their collections of old coins and stamps with which to amuse themselves during their idle time.

The fundamental question now arises as to Frank's criminal

responsibility for the hundreds of thousands of murders which were perpetrated in the concentration camps and which were followed by the wholesale confiscation of the property of the dead men. Assuming that Frank ultimately heard of the extermination measures, can it be said as a matter of law that his participation in the distribution of the personal property of the inmates exterminated makes him a participant or an accessory in the actual murders? Any participation of Frank's was *post facto* participation and was confined entirely to the distribution of property previously seized by others. Unquestionably this makes him a participant in the criminal conversion of the chattels, but not in the murders which preceded the confiscation.

We therefore cannot find from the proof that the defendant Frank is in law guilty of the murders of the Jews in the concentration camps, but we do find that he was guilty of participating and taking a consenting part in the wholesale looting which was described as Action Reinhardt.

Therefore, on two specifications—the slave labor program, heretofore, described, and the looting of property of Jewish civilians from the Eastern occupied countries—we find the defendant Frank guilty of war crimes and crimes against humanity.

COUNT FOUR

The Tribunal finds that the defendant Frank was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under count four of the indictment.

HEINZ KARL FANSLAU

This defendant joined the National Socialist Party and the Allgemeine SS on 1 July 1931. On 1 March 1938, he became a member of the SS Special [Purpose] units, which later came to be known as the Waffen SS. In this organization he ultimately attained the rank of Brigadefuehrer (brigadier general). In January 1934 he became an auditor in the SS Central Administration Office at Munich. Between that date and the organization of the WVHA in February 1942, he held various administrative posts in the SS organization, with the exception of the period, 1 December 1940 to 30 September 1941, during which he was commander of the supply battalion of the SS Viking division at the front.

Within the organization of the WVHA, he was chief of Amt A V, the personnel office, and, upon Frank's resignation in September 1943, Fanslau succeeded him as chief of Amtsgruppe A, the chief administration office of the WVHA. As chief of Amt A V,

Fanslau's personnel work involved replacements, recruiting, discharges, promotions, assignments, and transfers. Within this field he dealt indiscriminately with the Waffen SS personnel and also with that of the concentration camps. Although he did not have the power to actually appoint camp commanders, he did make recommendations to Himmler or to the Main Personnel Office, through Pohl, for their transfer, appointment, or promotion, and he personally signed orders transferring camp commanders. (*NO-4560, Pros. Ex. 716; NO-4505, Pros. Ex. 720.*)

Much of the comment in this judgment as to the defendant Frank is equally applicable to the defendant Fanslau. As the officer in charge of personnel, he was as much an integral part of the whole organization and as essential a cog in its operation as any other of Pohl's subordinates. He was in command of one of the essential ingredients of successful functioning. This has no relation to "group condemnation," which has been so loudly decried. Personnel were just as important and essential in the whole nefarious plan as barbed wire, watch dogs, and gas chambers. The successful operation of the concentration camps required the coordination of men and materials, and Fanslau to a substantial degree supplied the men. He was not an obscure menial; he was a person of responsibility and authority in the organization, who was charged with and performed important and essential functions. As chief of Amtsgruppe A after Frank's resignation he occupied a dominant position right near the top of WVHA. His claim that he was unaware of what was going on in the organization and in the concentration camps which it administered is utterly inconsistent with the importance and indispensability of his position. Whether or not he was aware of the cold-blooded program of extermination of useless concentration camp inmates, he must have been aware that millions of human beings had been herded into concentration camps, in violation of all their rights and solely because Germany needed their labor, to work under the most inhumane circumstances.

The Tribunal finds without hesitation that Fanslau knew of the slavery in the concentration camps and took an important part in promoting and administering it. This being true, he is guilty of war crimes and crimes against humanity.

Evidence was introduced that while defendant Fanslau was in command of the supply battalion of the Viking division, which was engaged in the campaign against Russia in the Ukraine, a number of atrocities were perpetrated against the Jews in the vicinity of Tarnopol by the troops under Fanslau's command. The character of this proof has made the Tribunal reluctant to accept it as true beyond a reasonable doubt. The evidence as to Fanslau's

participation in these events was almost entirely hearsay and rumor, sprinkled with conclusions. Only the witness Otto claimed to have personal knowledge upon which to base his testimony. In view of the history of this witness, medical and otherwise, the Tribunal is unwilling to accept his testimony as true, especially when related to such a serious accusation. The number of military units which were present on the occasion—SS Einsatzgruppen, SD troops, Wehrmacht members, Ukrainian police, and others—make identification of the actual perpetrators unreliable.

The Tribunal, therefore, finds no criminal responsibility attaches to defendant Fanslau's conduct as an officer of the Viking division.

COUNT FOUR

The Tribunal finds that the defendant Fanslau was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under count four of the indictment.

HANS LOERNER

Defendant Hans Loerner joined the National Socialist Party on 1 January 1932, and the Allgemeine SS on 1 April 1933. He served as an administrative officer of the Allgemeine SS until he was transferred to the Waffen SS in October 1939, being later transferred to the Central Administration Office at Berlin, where he became a subordinate of Pohl as a personnel officer. He ultimately attained the rank of Obersturmbannfuehrer (lieutenant colonel) in the SS. Upon the organization of WVHA in 1942, he was appointed chief of Amt A I, the office of budgets. In April 1944, when Gustav Eggert, chief of Amt A II, was transferred to a field unit, Amts A I and A II were combined, and Loerner became chief of both Amts. Amt A II was concerned with finance and payroll matters. In the summer of 1944 he became deputy chief of Amtsgruppe A.

It is Loerner's contention that, with the adoption of the open budget at the beginning of the war, his duties greatly diminished and subsequently all but disappeared, and that the only substantial task left for him to perform was the simplification of the Todt Organization, to which most of his time was devoted. The fact remains, however, that Loerner continued to perform important administrative duties in connection with his Amt all through the war. It is hardly conceivable that he would have been retained as head of an office which had entirely lost its usefulness. On 11 May 1942, Loerner and Frank conducted negotiations for 6 days with the Reich Minister of Finance on the SS budget, involving the

number, rank, and salaries of personnel. In September 1942 Loerner rendered a report to the Reich Court of Accounts, stating that seven collecting camps for "undesirable Polish elements," near Danzig had already been established. He further reports that construction of a much larger camp, Stutthof, was begun at the end of 1939.

In October 1942, Loerner wrote that Himmler had ordered the Ahnenerbe to establish an Institute for Scientific Military Research, the expenses of which were to be met from funds of the Waffen SS, and instructed that "bills due were to be handed in to this office for payment." In November 1942, Sievers, who was one of the principals in the Ahnenerbe program, notes that he had discussed in detail with Loerner the plan to have the expenses of the Institute for Scientific Military Research met by the SS. The institute referred to was a part of the over-all plan for using concentration camp inmates for medical experiments, but there is no evidence that, either through Sievers or otherwise, Loerner became aware of the criminal purposes of the institute.

During 1942 and 1943 Loerner was greatly concerned with the fixing of wage scales for the Waffen SS. In connection with the concentration camps, Kaindl, and later Burger of Amt D IV, concentration camp administration, assembled the budget items for the concentration camps and passed them on as part of the entire budget of the Waffen SS to Loerner in Amtsgruppe A, who reviewed it and put it in shape to be transmitted to the Main Department of Finance in Berlin.

After Loerner took over the control of Amt A II, his connection with the administration of the concentration camps became even more intimate, for here he was confronted by problems of financing and meeting payrolls. Eichele, who was paymaster of the Waffen SS, with an office in Dachau, states (*NO-2325, Pros. Ex. 514*): "In my work in the pay office, I was subordinate to Aemter A I and A II of the WVHA, of which Hans Loerner was the head." Requisitions for wages for SS personnel were made to Loerner in office A I. In the establishment of wage scales for concentration camps, Pohl ordered that Loerner be consulted.

From this proof it becomes quite apparent that the defendant Hans Loerner was anything but a figurehead in the WVHA. In spite of the diminishing importance of his office, he continued until the end to exercise vital and important functions within the structure of the WVHA in connection with its administration of the concentration camps. He was more than a mere bookkeeper. He exercised discretion and judgment and made important decisions, many of which related directly to the procurement and operation of concentration camps. To say the least, he took a

consenting part in and was connected with the operation and administration of the concentration camps, which, as has been already pointed out, operated with a program of slave labor throughout the war.

By reason of his direct and intimate association with this program, defendant Hans Loerner must be deemed to be guilty of war crimes and crimes against humanity.

The evidence upon which it is sought to criminally implicate the defendant Hans Loerner in Action Reinhardt is in the opinion of the Tribunal insufficient to justify a conclusion of guilt on this specification.

COUNT FOUR

The Tribunal finds that the defendant Hans Loerner was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under count four of the indictment.

JOSEF VOGT

The date at which Vogt joined the National Socialist Party is uncertain due to contradictions in the proof, but it was either in 1920, 1937, or 1938. The date of his entry into the SS is also indefinite. In his affidavit he states that he was never a member of the Allgemeine SS, but his official service record contains the entry, "1 October 1936, entry into Allgemeine SS." In any event, it is clear that he was a member of the Party and of the SS before the war. In the SS he attained the rank of Standartenfuehrer, or colonel. Between 1936 and 1942, he served as an auditor, or in some related capacity in various SS offices, and when WVHA was organized in the spring of 1942, he became chief of Amt A IV, the office of audits, under the defendants Frank and Fanslau, in which office he continued until the surrender. Certain departments of the SS were excluded from the auditing functions of Vogt's Amt. Amtsgruppe C, the Main Construction Office, had its own separate auditing service under defendant Eirenschmalz in Amt C VI; Amtsgruppe W, the economic enterprises, was independently audited; expenses for medical and welfare service were not audited by Vogt's Amt, as was also true of the SS paymaster's office in Dachau. Only the stationary units of the Waffen SS were subject to audit by Amt A IV; all mobile units were subject to audit by the army administration, and all SS offices in the occupied territories were independently audited on

the spot. Amt A IV did audit the receipts and disbursements of about 300 garrison cashiers, together with the records of Amtsgruppen A, B, and D of the WVHA. Vogt's duties never transcended those of an auditor. He was never a financial director; he did not authorize purchases, requisition material, direct distribution, order payment, or in any other way control fiscal policy. His sole task was to inspect and analyze the records (which others had made) of past transactions.

The prosecution seeks to inculcate Vogt on two grounds—that he took a consenting part in and was connected (1) with the mistreatment of concentration camp inmates, or at least in the employment of slave labor in the camps, and (2) with the atrocities incident to Action Reinhardt.

As to the first specification, there is no claim that Vogt was either a principal in, or an accessory to the actual mistreatment or enslavement of the concentration camp inmates. The most that is claimed is that because of his position he must have known about them and therefore took a consenting part in and was connected with them. His consent is not objectively shown. He nowhere expresses or implies consent. The only consent claimed arises from imputed knowledge—nothing more. But the phrase, "being connected with" a crime means something more than having knowledge of it. It means something more than being in the same building or even being in the same organization with the principals or accessories. The International Military Tribunal recognized this fact when they placed definite limitations on criminality arising from membership in certain organizations. There is an element of positive conduct implicit in the word "consent." Certainly, as used in the ordinance, it means something more than "not dissenting." Perhaps in the case of a person who had power or authority to either start or stop a criminal act, knowledge of the fact coupled with silence could be interpreted as consent. But Vogt was not such a person. His office in WVHA carried no such authority, even by the most strained implication. He did not furnish men, money, materials, or victims for the concentration camps. He had no part in determining what the inmates should eat or wear, how hard they should work, or how they should be treated. Nor is there any proof that he knew what they *did* eat or wear, or how hard they *did* work, or how they *were* treated. The most that can be said is that he knew that there were concentration camps and that there were inmates. His work cannot be considered any more criminal than that of the book-keeper who made up the reports which he audited, the typist who transcribed the audit report, or the mail clerk who forwarded the audit to the Supreme Auditing Court.

ACTION REINHARDT

In June 1943 there arose some suspicion of financial irregularities in the SS garrison treasury at Lublin, whereupon Frank ordered Vogt to proceed to Lublin to audit the treasury books. During his audit, Vogt came across an "Account R," containing the record of a very large amount of money on hand. Vogt asked Wippern, Globocnik's deputy, what the account represented and was told that it was a secret which could not be disclosed. Vogt was told later, however, that the money had been confiscated from the Jews and then was shown a trunk full of jewelry and rare coins which was kept in a safe. The next day Wippern showed him a house stored with clothing which Wippern said had come from the confiscation. Before leaving Lublin, Vogt complained to Globocnik that the record of this account was not properly kept and that Globocnik did not have proper certificates identifying the owners of the property. He also commented that the Supreme Auditing Court had no notice of the fund and had no opportunity to audit it, as was their right and duty. After some controversy, Vogt and his assistant, Hahnefeld, returned to Berlin and reported to Frank and Pohl, and also to Knebel, a representative of the Supreme Auditing Court.

No further audit of the Reinhardt fund was made by Vogt, nor does it appear that he ever did anything further in connection with it except to write a letter on 15 March 1944, to all WVHA advisors asking whether they had any receipts or expenditures in connection with the evacuation of the Jews which had not been settled. This letter was written in pursuance of Pohl's order 9 December 1943, directing that upon completion of the resettlement operation vouchers were to be presented for audit to Vogt's Amt A IV. Vogt's letter, 15 March 1944, was merely a final check on compliance with Pohl's order.

Except for the audit of June 1943, referred to above, Vogt made no further audit of the proceeds of Action Reinhardt, but subsequent audits were made by Melmer, who had no connection with Vogt or his Amt.

It will be observed that this audit by Vogt of the garrison treasury at Lublin was not in performance of his regular duties. It was a special assignment by Frank, impelled by unusual and urgent circumstances which called Vogt aside from his usual duties. It constitutes a single isolated instance in which Vogt came in contact with Action Reinhardt. The question naturally arises, what should Vogt have done under the circumstances to avoid implication in Action Reinhardt? If his single experience amounted to taking a consenting part in or being connected with the felonious

project, at least it can be said that he avoided all future experiences. At the time of his audit in Lublin, Action Reinhardt had been in progress for nearly two years and was near the point of conclusion. It was far too late to attempt to stop the launching of the vicious program even if Vogt had had the power to do so. The harm had been done, and he could not prevent it. He promptly reported his discoveries to his superiors and severed whatever slight connection he may have had with the project. He had inadvertently stumbled upon evidence of a crime which had already been committed. Instead of trying to conceal it, he openly uncovered it and had no further connection with it. Again, the Tribunal is impelled to ask, what should he have done? Unless we are willing to resort to the principle of group responsibility and to charge the whole German nation with these war crimes and crimes against humanity, there is a line somewhere at which indictable criminality must stop. In the opinion of the Tribunal, Vogt stands beyond that line.

The Tribunal therefore finds the defendant Vogt not guilty of war crimes and crimes against humanity, as charged in the indictment.

COUNT FOUR

The Tribunal finds the defendant Vogt not guilty under count four of the indictment.

GEORG LOERNER

Defendant Georg Loerner joined the National Socialist Party in November 1931 and became a member of the SS the following year. His highest rank in the SS was Gruppenfuehrer, or major general. In May 1935 he was employed in the administrative office of the SS at Munich, and in the fall of that year he was given the assignment of organizing a department for clothing supply. In May 1939 he was transferred to Berlin, where he carried on the same task of supplying clothing and personal equipment to the SS troops upon requisition of the various units. Until April 1936, clothing for concentration camp inmates was supplied by the several local governmental units. After that date the task of supplying clothing for camp inmates as well as the SS armed units was taken over by the SS Administrative Office, of which the defendant Pohl was the head. This was Georg Loerner's initiation into concentration camp administration.

When the WVHA was organized in February 1942, Loerner became chief of Amtsgruppe B, which, among other duties, was charged with the supply of food and clothing to all stationary

armed units of the SS (excluding armed forces in the field) and to the concentration camp inmates. In addition, Loerner was deputy chief of Amtsgruppe W which administered the economic enterprises owned or controlled by WVHA. After the defendant Frank left the WVHA in September 1943, he was succeeded by Loerner as deputy chief of the WVHA under Pohl.

From these three responsible positions held by Loerner, it will be seen that he was not an obscure subordinate in the WVHA organization. Each of the positions which he held required a broad measure of responsibility, which the documents in the case indicate he exercised in full.

CONNECTION WITH W [WIRTSCHAFTS—ECONOMIC] ENTERPRISES

With Pohl, defendant Georg Loerner was one of the incorporating partners in the German Economic Enterprises, known as "DWB", which was the holding company having control of nearly all of the W enterprises. He was an original incorporator with the defendant Frank of the leather and textile enterprise at Ravensbrueck, and with Pohl was one of the organizers of OSTI, with an initial contribution of 25,000 Reichsmarks. He was also vice chairman of the board of supervisors of the Golleschau Portland Cement company, of which Pohl was the chairman. In addition, he was a director of the Cooperative House and Home Building company at Dachau. All of these companies were units of Amtsgruppe W, of which Loerner was deputy chief under Pohl. His connection with these concerns was much more than formal. He took an active and interested part in the management of their affairs and his voice was heard in the policy making. For example, in a conference with reference to the affairs of OSTI held 13 February 1943 (*NO-1270, Pros. Ex. 61*), at which Pohl, Loerner, Volk, and Hohberg were present, a series of questions was propounded which Loerner helped answer. The questions were preceded by the statement that the Jewish manpower in the Government General was to be used for armament production. Then the question is asked: "Must this mandate be regarded primarily from a political-police or from an economical point of view?"

Other questions followed:

"How many Jews live in the Government General, how are they split up as to sex and professional groups?"

"Who can give information about the nature, extent and location of the existing Jewish movable property?"

"Who is the possessor of the Jewish movable property?"

"How is the Jewish property to be taken over? Under a trust-

teeship or directly?

"When are the Jewish enterprises not under the charge of the SS to be taken over, immediately or gradually?"

"Are concentration camps to be established according to the German pattern, which assigns the prisoners to the OSTI and other trustworthy firms?"

These questions were either answered or bypassed at the conference, but the significant point is that Loerner participated in the discussion and knew of the underlying program of OSTI to fully utilize Jewish slave labor in its enterprises. When it was determined to liquidate OSTI in March 1944 because of the withdrawal of its labor supply, Loerner attended the final meeting and signed the minutes with Pohl.

A report by Pohl, dated 7 December 1943 (*NO-599, Pros. Ex. 63*), of a conference at which Loerner was present, shows that it was agreed that 10 labor camps in the Lublin district should be taken over by the WVHA as branch concentration camps, as a result of which "the inmates of these labor camps will become concentration camp prisoners." It was further agreed that all other labor camps in the Government General should be taken over by WVHA "in the interest of a general clearing up." As a further measure of control, it was agreed that the police guards acting in the labor camps should be subordinated to the WVHA and taken over by that office, "as far as they are members or possible candidates for the SS."

A significant document (*NO-2147, Pros. Ex. 30*) is found in the report of Loerner and others to Pohl, 9 January 1942, concerning the proposed acquisition of property for the enlargement of the concentration camp Stutthof. Pohl had collaborated with others in a detailed study of the proposed plan, which contemplated the housing of "25,000 prisoners, including prisoners of war." Although this plan was never consummated, Loerner participated in it up to the time of its abandonment. A few days later, Maurer reported to Loerner that Pohl had made him responsible for concluding the details and outlined at length his plans for acquiring the property for the concentration camp. If Loerner was only a straw man or a figurehead, it is difficult to understand why Maurer felt impelled to report to him.

Document NO-514, Pros. Ex. 414 discloses that on 3 March 1944, Loerner participated in a conference for the preparation of a new wage scale for prisoners, at which it was decided that their wages be fixed at about 75 percent of the wages paid in private industry. It will be observed again that this has no reference to wages to be paid the workers but only to the amounts to be paid by the industries to the concentration camps. Loerner participated in the

conference to the extent of pointing out that it might be advisable to inquire whether these rates could be paid by the individual plants without loss and suggested that the plant cost sheets be checked.

That Loerner was not regarded as insignificant by Pohl is evidenced by Pohl's letter (*NO-1048, Pros. Ex. 404*) directing that all matters of importance concerning DWB should go to Loerner for his comment and signature before being sent to Pohl and directing Loerner to keep informed on all important developments in the DWB industries. The fact that this order was rescinded a short time later is of no consequence. The exhibit indicates that when Pohl wrote it he considered Loerner a responsible person of considerable consequence in the WVHA organization, especially with reference to the W enterprises.

In view of all this proof, Loerner's claim that he was a mere figurehead in the field of the concentration camps and the enterprises which were dependent upon them, falls flat. Whether or not he knew of the mistreatment and extermination of the prisoners has not been conclusively proved, although there is substantial ground for suspecting that he could not have avoided knowing it. It is undoubtedly true that he knew of the Reich policy of furnishing slave labor from the concentration camps to the vast area of industrial enterprises which were, at least in part, under Loerner's supervision. When Burger, of office D IV, reported to Loerner on 15 August 1944 (*NO-1990, Pros. Ex. 73*), that there were then over 500,000 prisoners in concentration camps and that over 600,000 more were expected immediately, Loerner must have known, and the Tribunal finds that he did know, that these inmates were slaves who had been snatched from their homelands and herded into concentration camps to further the German war effort. Loerner must have gleaned some knowledge from the list of expected new arrivals which Burger furnished him, as follows:

"1. From the Hungary Program (Jewish campaign) . . .	90,000
"2. From Lodz (Police prison and ghetto)	60,000
"3. Poles from the General Government	15,000
"4. Convicts from the Eastern territories	10,000
"5. Former Polish officers	17,000
"6. From Warsaw (Poles)	400,000
"7. Current arrivals from France approximately	15,000-20,000

612,000"

Assuming that mere knowledge is not sufficient to inculcate Loerner, it nevertheless appears conclusively that, in addition to

knowing of the slave labor program, he helped administer it in an active and responsible fashion. His connection with the program was not remote or intangible; it was direct and vital. The fact that he knew that prisoners of war were also being enslaved and compelled to perform labor on war munitions in violation of the Hague and Geneva Conventions, only adds to his guilt. As an old veteran of World War I, he more than others, should have realized that there are certain rules of warfare which should be observed by all civilized nations and that one of the foremost of these rules was being violated under his very nose and with his help and connivance.

SUPPLY OF FOOD AND CLOTHING TO CONCENTRATION CAMPS

The first duty which a slave owner owes to his serfs is to feed, shelter, and clothe them properly. His own self-interest in maintaining their working capacity would seem to dictate no less. The story of the starvation and suffering of the concentration camp inmates, of their being beaten and abused and worked to death, is an old one and it would be idle to repeat it here. That they were under-fed and ill-clothed has been repeatedly proved before these Tribunals. The immediate question confronting this Tribunal is whether or not Loerner was responsible for these appalling conditions. It is to be observed that the supplying of concentration camp inmates was not his only duty. In addition he was required to supply the garrisons, guards, and other stationary units of the Waffen SS. It is obvious, we think, that no one had the right to provide for one group at the expense of the other, especially when such deprivation was carried to the extent of freezing and starvation. The Tribunal is well aware of the fact that the blockade of Germany and the military reverses which followed the surrender of Stalingrad made the problem of procurement of food and clothing an increasingly acute one, but we are also aware that even before Stalingrad it was the policy of the Reich to feed and clothe concentration camp inmates only to an extent which would permit them to keep on working.

WVHA was the top agency for the administration of the concentration camps and the task of administration was a comprehensive one. If WVHA was concerned with the last details of prisoners' wages, production and allocation, it was also concerned with furnishing food and clothing for prisoners, and this obligation carried down to the final step of distribution—actually seeing to it that the prisoners got the necessary supplies. The duty of administration goes that far. Clothing which is ordered or requisitioned

tioned but not delivered does not keep men from freezing. Loerner's office was not charged with labor allocation; but that did not prevent his going to Dachau in April 1941 to address a conference of labor allocation officers. In August 1944, Loerner was advised by Burger that with an immediate prospective camp population of over a million, he did not have sufficient clothing to supply their needs, in spite of having seized large amounts of civilian clothing in Hungary and Poland. Loerner was more than a mere purchasing agent or requisition clerk. He was a top-level administrative officer in charge of clothing supply, with all that that term implies. Pohl in an affidavit filed in the case (*NO-2616, Pros. Ex. 523*) states: "It was the responsibility of Loerner to assure the provision of clothing to the concentration camp inmates."

Fanslau corroborates this statement in his affidavit (*NO-1909, Pros. Ex. 6*): "Georg Loerner was in the last resort responsible for the procurement of clothing for the prisoners."

Loerner's defense is the typical one: "That was the duty of somebody else." He testified that all he could do was to receive the requisitions for clothing from Amtsgruppe D and process them by sending them to the SS clothing factories at Dachau. But the obligation of his responsible office did not end there. The industries in which he was so active as incorporator, director, and supervisor and to which he gave so much time and effort were the principal users of inmate labor. Both as an employer and as a supply officer it was his duty to see to it that the inmates were supplied with adequate clothing. It is not sufficient for him to say, "Well, I've ordered clothing. That's all I'm supposed to do." The lives of thousands of men depended on his doing more than that.

ACTION REINHARDT

The evidence concerning Loerner's connection with Action Reinhardt is not sufficient to convict him on this specification. There is some proof from which it may be reasonably inferred that he had knowledge of property being confiscated from Jews, but there is nothing which shows with the requisite degree of certainty that he knew that such property had been taken from Jews who had been killed in concentration camps or in pursuance of the extermination policy. Pohl stated in an affidavit that Loerner had prepared for his signature a "report on the realization of textile salvage from the Jewish resettlement" (*NO-1257, Pros. Ex. 479*). An order from Pohl (*NO-725, Pros. Ex. 481*), which was distributed to Amtsgruppe B among a number of others, refers to "Administration of Jewish Property" and has a file note reading,

"Reinhardt Prisoners Journal," but the order refers only to auditing procedure. There are other bits of proof on this subject, but in the aggregate it is insufficient to justify a determination beyond a reasonable doubt that Loerner took a consenting part in or was actually connected with the action itself.

On the grounds herein indicated and for the reasons specified, the Tribunal finds the defendant Georg Loerner guilty of war crimes and crimes against humanity, as charged in counts two and three of the indictment.

COUNT FOUR

The Tribunal finds that the defendant Georg Loerner was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under count four of the indictment.

ERWIN TSCHENTSCHER

Tschentscher was born in Berlin, 11 February 1903. He attended public and higher schools in Berlin and finished his educational career in 1919. He was a professional soldier, having joined the Allgemeine SS as a private 1 May 1930, with SS No. 2447. He joined the Waffen SS at the beginning of the war 1 October 1939 with the rank of Standartenfuehrer. He joined the NSDAP 1 December 1928 with Party No. 102547. After completing a number of assignments with the SS on 30 November 1940, he was transferred to the SS Viking division, which was then being activated. He was placed in command of the economic battalion, consisting of the supply office and the bakers and butchers companies, and was directly subordinate to the defendant Fanslau. During the period of activation and training of this unit it was a part of his duties to give lectures to the troops. Among other topics discussed in these lectures, Tschentscher explained the ideology of the SS on the Jewish question, racial theories, the SS marriage program, and other military, and political subjects. He stated in these lectures that "the Jews were a foreign body within the community of the German people and that the solution of the Jewish question was to be that the Jews should disappear from Germany, should permanently settle in other countries, or be placed in concentration camps and places like that." Thus, it may be seen that he was thoroughly familiar with the aims of the SS and was willingly participating in planning and carrying out its program.

About the middle of June 1941, the division having completed

its period of training and activation, moved into the area of Lublin in Poland. Tschentscher actively engaged in the first Russian campaign, from about the first of July until 31 December 1941, when he was transferred to Obersalzberg.

During this campaign, he was battalion commander of the supply column, as well as company commander, and directly subordinate to the defendant Fanslau. While his command was in the area of eastern Poland and in the Ukraine, thousands of Jewish civilians and other noncombatants were ruthlessly murdered and exterminated. There is evidence to the effect that members of Tschentscher's command engaged in this program, together with Einsatzkommandos. These murders and atrocities took place particularly in the vicinity of the Ukraine. There is hearsay evidence that Tschentscher personally participated in these crimes, but there is no direct evidence to this effect. There is some evidence that he had constructive knowledge of the participation of members of his command, but absolutely no evidence that he had actual knowledge of such facts. He emphatically denies participation in and all knowledge of these matters.

The law of war imposes on a military officer in a position of command an affirmative duty to take such steps as are within his power and appropriate to the circumstances to control those under his command for the prevention of acts which are violations of the law of war. The Supreme Court of the United States pointed out in a decision entitled, "Application of Yamashita," 66 Supreme Court 340-347, the following:

"It is evident that the conduct of military operations by troops whose excesses are unrestrained by the orders or efforts of their commander would almost certainly result in violations which it is the purpose of the law of war to prevent. Its purpose to protect civilian populations and prisoners of war from brutality would largely be defeated if the commander of an invading army could with impunity neglect to take reasonable measures for their protection. Hence the law of war presupposes that its violation is to be avoided through the control of the operations of war by commanders who are to some extent responsible for their subordinates."

The reason for the rule is plain and understandable, but what has been said in this decision does not apply to the defendant Tschentscher.

Conceding the evidence of the prosecution to be true as to the participation of subordinates under his command, such participation by them was not of sufficient magnitude or duration to constitute notice to the defendant, and thus give him an opportunity to control their actions. Therefore, the Tribunal finds and adjudges

that the defendant Tschentscher is not guilty of participating in the murders and atrocities committed in the Russian campaign as alleged by the prosecution.

TSCHENTSCHER'S ACTIVITIES IN THE WVHA

On 1 October 1943, the defendant was transferred to the WVHA and was appointed chief of Amt B I of Amtsgruppe B; shortly thereafter he was appointed deputy to Georg Loerner, chief of Amtsgruppe B. He stated that his duties and responsibilities as chief of Amt B I consisted of the following: All matters pertaining to food concerning the Waffen SS and the police at home, roughly for about 1,000,000 men. His duties also comprised the negotiations with the army administrative office, in order to fix the food rations for the troops. His office also worked on the planning and the actual delivery of the food, the earmarking of the rations, and their supply to 30 troop storage plants which were scattered over the Reich. His task was to have the food ready so that it could be collected by the troops. About twenty to thirty thousand concentration camp guards were fed by his office. This particular aspect of his feeding program was done by the troop camp stores in the area where the concentration camps were located. He stated that his office did not have anything to do with feeding and supplying food for concentration camp inmates.

It may be seen from his statements that the only contact his office had with concentration camps was the furnishing of food for the concentration camp guards. He further stated that Burger, chief of office D IV came to see him three or four times for the purpose of securing certain food for concentration camps. Burger stated that he wanted to have special diet furnished for sick inmates, such as fruit, canned vegetables, and wine in small quantities, which he could not otherwise obtain. He stated that he furnished these articles to Burger but realized at the time that he was exceeding his authority. (*Tr. p. 3169.*)

The defendant stated that he visited the concentration camps in a few cases. On one occasion, in 1941, he visited concentration camp Dachau. While there he participated in an inspection of the actual concentration camp, and testified that the barracks were extremely clean and quite fit for human habitation. The inmates kitchen, the hospital, and the dental station were very modern; and other installations, such as the bakery shop, the carpenter shop, and workshops were all in excellent condition. The inspection lasted about an hour and a half, and was conducted by five or six SS leaders (*Tr. pp. 3177-8.*)

Towards the end of 1944 he visited Buchenwald concentration

camp for the purpose of obtaining a storage room for food. He saw some inmates marching past, but saw nothing that would attract attention. (*Tr. p. 3179.*)

In November 1943, in company with Kammler, chief of Amtsgruppe C, he made an inspection of concentration camp Dora, where two construction places were visited. Two large tunnels about 3 kilometers long had been built into the mountain. During these inspections, Pister, commander of Buchenwald, Foerschner, the commander of Dora, Barnewald, the administrative officer, and Dr. Schiedlausky, the camp physician of Buchenwald, were present. Tschentscher described the conditions as follows: clothing was insufficient, especially for cold weather; barracks were inadequate; the air was very bad from lack of ventilation. The inmates, approximately 1,500 to 2,000, were housed in the shafts of tunnels which were 8 to twelve meters high. The inmates slept on bunks, four on top of each other, and had insufficient covers. The lighting system was extremely bad and caused the inmates to appear to have dust from the stones covering their faces. The food was insufficient for the work to be performed. Medical care was also insufficient, as the camp did not have its own physician and the personnel consisted of inmates who were only medical assistants. A great many of the inmates were reported sick, and on that day sick call amounted to forty inmates. He further stated that deaths did not occur in the beginning, but later he heard that inmates had died probably as a result of exhaustion and colds. He stated that he did not need any confirmation of this fact when he saw the people, because when he saw them it was rather unnerving. He further concluded that when an epidemic occurred a catastrophe might follow because of the low resistance of the inmates. The defendant stated that when he saw these conditions his only thought was to help them as quickly as possible. On the following morning he made another short inspection, and what he observed only confirmed his conclusions. He returned to Berlin and gave immediate instructions to the various depots to turn over food from the storage warehouses. He stated that he also contacted office B II for clothing, and the Reich physician SS for medical supplies. He urgently requested that a physician be assigned and that medical personnel of the SS be furnished. He telephoned the main medical depot at Berlin, asking them to allocate medicine and disinfectants for the camp. He stated that he received the cooperation which he desired from all of these agencies, and that from his depots he furnished twenty to thirty tons of food—flour, peas, beans, canned meat, oils, fats, dehydrated fruits, and rice supplementing regular rations. In addition, he furnished post exchange items, rum and tea, as well as

cigarettes and toilet articles. He then made the following significant statement: "It was our specific intention that these people be able to recover somewhat so that they would regain a better physical condition and be able to perform their work better." He stated that he made a written report to the defendant Pohl concerning this inspection, together with his recommendations. (*Tr. pp. 3186-3193.*)

The defendant admitted that approximately 3 or 4 weeks after the Dora inspection he was again requested to send additional food, which he did. He stated that upon Kammler's request he also sent food to a camp near Linz. (*Tr. pp. 3194-5.*)

The defendant was asked:

Q.: "Did your department maintain and supervise training kitchens at Oranienburg, Dachau, and Beneschau?"

A.: "We had three training kitchens, one at Dachau, one at Oranienburg, and a third one located at Beneschau, near Prague. These three training kitchens were also subordinated to me. I was the immediate superior; and I visited these three kitchens. I supervised and directed the training curriculum there."

The courses at these training kitchens included instructions as how not to prepare food. (*Tr. p. 3236.*)

He testified that office B I was dissolved in April 1945, owing to the condition of the war. When asked if he participated in the destruction of records of Amt B I, he answered: "Before we left Berlin we destroyed superfluous files, which was a routine matter and an order. The remaining files we took with us to the mountains. We burned them there." (*Tr. p. 3254.*) He stated that the records were destroyed for the purpose of keeping them from falling in the hands of the enemy. He denied any knowledge of prisoners of war and nationals of other countries being confined in the concentration camps. He denied all knowledge of the "Reinhardt Action," and the program for the extermination of the Jews, of the medical experiments which were conducted in the concentration camps, of the euthanasia program, and of inhumane treatment and atrocities. He offered documents and the testimony of the witnesses, Walter Hoyer and Arnold Ertel in corroboration of his contentions.

The Tribunal concludes that the defendant Tschentscher was not a mere employee of the WVHA, but held a responsible and authoritative position in this organization. He was chief of Amt B I, and in this position had large tasks in the procurement and allocation of food. Conceding that he was not directly responsible for furnishing food to the inmates of concentration camps, he was responsible for furnishing the food to those charged with guarding these unfortunate people. According to his own admis-

sions, on a number of occasions he furnished food to the inmates when requested to do so by those in authority. He contends, however, that he was not competent for this task and only furnished this food from a humanitarian motive. Nevertheless, from his own testimony we conclude that he had other motives as well, when he stated:

"It was our specific intention that these people be able to recover somewhat so that they would regain a better physical condition and be able to perform their work better."

"These people," included slave laborers from occupied territories and prisoners of war.

The Tribunal is fully convinced that he knew of the desperate condition of the inmates, under what conditions they were forced to work, the insufficiency of their food and clothing, the malnutrition and exhaustion that ensued, and that thousands of deaths resulted from such treatment. His many visits to the various concentration camps gave to him a full insight into these matters.

The Tribunal finds without hesitation that Tschentscher was thoroughly familiar with the slave labor program in the concentration camps, and took an important part in promoting and administering it. The successful operation of the concentration camps required the coordination and cooperation of experts, as well as materials, and Tschentscher as chief of Amt B I and deputy to Georg Loerner, contributed his share in the allocation of food and clothing.

The Tribunal finds and adjudges the evidence, and beyond a reasonable doubt, that the defendant Tschentscher is guilty of war crimes and crimes against humanity, as charged in counts two and three of the indictment.

COUNT FOUR

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that the defendant Tschentscher was a member of a criminal organization, that is, the SS, under the conditions defined by the judgment of the International Military Tribunal, and is therefore guilty under count four of the indictment.

RUDOLF SCHEIDE

The defendant Rudolf Scheide was born on 24 December 1908, in Wolfenbuettel. He attended elementary schools until 1922; from 1926 to 1927 he served one year as an agricultural laborer near Brunswick, and during 1928 and 1929 he was with the voluntary labor service working on private estates. From 1929 to 1930 he did odd jobs for friends near his home, and from 1930 to 1933 he worked in the sugar factories in Schladen, and other places. He

joined the NSDAP in 1929, with the Party No. 93508. He was a member of the SS from 1930 until the end of the War, and had the SS No. 2351. His first rank in the General SS was SS man, and last rank in the SS was Standartenfuehrer (colonel). He commanded a motorized company from 1938 until 1 October 1942. At that time his motorized organization became a division, and the defendant became the division technical officer. On 1 October 1942, he was transferred to the Economic and Administrative Main Office, WVHA. When he joined the WVHA on 1 October 1942, he became the chief of Amt B V as a technical expert in the field of motor transportation. In the defendant's own affidavit, (*NO-2612, Pros. Ex. 10*), he outlined in detail his duties as office chief of Amt B V of the WVHA. All motor transport technical officers were in principle subordinate to the Operational Main Office, formerly the command headquarters of the Waffen SS. Pohl informed him that Georg Loerner was his chief, and he thereupon reported to Loerner. As chief of Amt B V of the WVHA, he took over the whole of the transportation of the WVHA, with the exception of the transports of human beings, which were taken over by D I. When he came to the WVHA he was commissioned by Gruppenfuehrer Loerner to bring all motor vehicles, weapons, and railroad transports under this office, so that everyone who had anything to do with them or with fuel, oils, tires, etc., was to report to him or to his Main Office. He was the representative of the Operational Main Office in the WVHA and was in charge of transportation for all the Amtsgruppen. Amtsgruppe A needed no transport space. Amtsgruppe B required transport space continually for forwarding goods to supply and equip the Waffen SS. Amtsgruppe C had its own quota of motor vehicles from the Operational Main Office, and had the vehicles of the private building firms put at its disposal. Amtsgruppe D constantly ordered motor vehicles from his office, and he passed on the orders to the Operational Main Office. These demands mostly came from Gluecks. He also dealt with the demands for arms and ammunition for the concentration camp guards and passed them on to the Operational Main Office, which in turn gave instructions to the ordnance depot of the Waffen SS in Oranienburg, where Amtsgruppe D collected these weapons. He never assigned the vehicles for the concentration camps to the camps themselves, but to Schulz who then assigned them to the concentration camps. If concentration camp inmates were shipped in railroad trucks, the preparations were made by the staff of Amtsgruppe D.

The prosecution contends that by virtue of the high office which the defendant held in the WVHA, he was required to

furnish the necessary transportation for all the Amtsgruppen of the WVHA, including Amtsgruppe D, which had charge of maintenance and control of the concentration camps.

The prosecution further contends that according to the large field of tasks carried out by the defendant in connection with the various offices and Amtsgruppen of the WVHA, he gained knowledge of how the concentration camps were operated; how the prisoners were treated; who they were; and what happened to them; that the defendant Scheide further knew that the concentration camps engaged in the slave labor program, and that he furnished transportation in this program with knowledge of its use. The prosecution further contends that the defendant Scheide knew of the mass extermination program carried out by the concentration camps under Amtsgruppe D, and that he furnished Amtsgruppe D in this program with transportation, spare parts, tires, gasoline, and other necessary commodities for carrying out this program.

The defendant Scheide contends that he had no knowledge of any of the activities and programs of the concentration camps, and that there is no evidence other than his own affidavit, his own testimony, and that of other defendants as to his duties, responsibilities, and activities as chief of Amt B V of the WVHA. He further contends that the prosecution has not submitted a single document against the defendant which mentions his name, and that no prosecution witness has testified to any facts against the defendant. He further contends that the prosecution has submitted no evidence which would tend to show his individual guilt of the charges contained in counts two and three of the indictment.

The defendant further contends that the only evidence offered against him is contained in the organizational charts of the WVHA, which shows that he was chief of Amt B V of the WVHA.

CONCLUSION

After weighing all the evidence in the case, and bearing in mind the presumption of innocence of the defendant, and the burden of proof on the part of the prosecution, the Tribunal must agree with the contentions of the defendant. If the Tribunal were to convict the defendant on the charges contained in counts two and three of the indictment, the only evidence on the part of the prosecution to sustain such conviction would be the organizational charts of the WVHA, which show (and the defendant admits it) that he was the chief of Amt B V. All of the evidence as to the duties performed by the defendant in this capacity, the respon-

sibilities assumed by him, the connections and influence that he had with other Amtsgruppen, and the knowledge that he had, if any, as to the activities and duties of the other Amtsgruppen, was furnished solely by the defendant himself and other defendants, who testified in corroboration of the defendant. Therefore, the Tribunal finds the defendant Rudolf Scheide not guilty of the charges contained in counts two and three of the indictment.

COUNT FOUR

The defendant admits that he joined the NSDAP in 1928, and that he was a member of the SS from 1930 until the end of the war. In regard to membership in certain organizations declared criminal by the International Military Tribunal, the following was said:

“A criminal organization is analogous to a criminal conspiracy in that the essence of both is cooperation for criminal purposes. There must be a group bound together and organized for a common purpose. The group must be formed or used in connection with the commission of crimes denounced by the Charter. Since the declaration with respect to the organizations and groups will, as has been pointed out, fix the criminality of its members, that definition should exclude persons who had no knowledge of the criminal purposes or acts of the organization and those who were drafted by the State for membership, unless they were personally implicated in the commission of acts declared criminal by Article 6 of the Charter as members of the organization. Membership alone is not enough to come within the scope of these declarations.”

The defendant admits membership in the SS, an organization declared to be criminal by the judgment of the International Military Tribunal, but the prosecution has offered no evidence that the defendant had knowledge of the criminal activities of the SS, or that he remained in said organization after September 1939 with such knowledge, or that he engaged in criminal activities while a member of such organization.

Therefore, the Tribunal finds and adjudges that the defendant Rudolf Scheide is not guilty as charged in count four of the indictment, and directs that he be released from custody under the indictment when this Tribunal presently adjourns.

MAX KIEFER

The defendant Max Kiefer was born on 15 September 1889, in Kempen on the Lower Rhine. He graduated from public schools in 1909. Thereafter, he studied architecture at Munich and Aachen.

During the time that he was engaged in his studies of architecture, a certain amount of his time was consumed with construction jobs of the Reich Railway Inspectorate, as well as taking study trips to Italy, France, Holland, and Belgium. In the year 1914 he completed his studies in architecture, was graduated, and soon thereafter became city architect for the city of Aachen.

During World War I, the defendant Kiefer was drafted into military service and served for the entire period of the war, being discharged with the rank of lieutenant in the reserve. After the First World War the defendant pursued his career as an architect working for the government and later as a private architect, specializing in city planning and housing projects. In 1936 he accepted a position with the Reich Air Ministry as building councilor in the department of dwellings and settlements. In this position his immediate superior was Kammler, who was later chief of Amtsgruppe C of the WVHA. The defendant joined the Allgemeine SS in July 1935 and the NSDAP in May 1937. When he was called up for military service in August 1941, Kammler intervened in his behalf and was successful in having him assigned to the Waffen SS. Later he was assigned to the building section of the Budget and Buildings Office of the WVHA. In February 1942, he was appointed chief of Office C II of the WVHA and remained as the chief of this office until the close of the War.

In order to properly carry out and maintain the various functions of the WVHA, specialists were required for every field. The defendant Kiefer was a specialist in architecture and his services were in great demand by the WVHA. With his great experience covering a long period of time as a master planner and architect, the Tribunal can easily understand why the defendant Pohl, as chief of the WVHA, appointed him chief of Amt C II, and assigned to him duties which included the planning, maintenance, and construction of concentration camps in the Reich and in occupied territories. Amtsgruppe C was the supreme building office of the Waffen SS, and office C II was concerned primarily with special construction tasks. The defendant, as chief of office C II, was also head of the main department in charge of general affairs of the Building Inspectorate. Subordinate offices to office C II, which were also subordinate to the defendant Kiefer, were as follows:

- C II/1—food and clothing installations.
- C II/2—arms, ammunition, and signalling installations.
- C II/3—hospitals and ambulances.
- C II/4—industrial buildings.
- C II/5—accommodations center bureau.
- C II/6—agriculture and special buildings.

Despite the fact that none of the other offices within Amtsgruppe C was charged with special construction tasks or any of the constructions outlined above, the defendant contends that these office titles were only for organizational purposes and not actually concerned with building projects; the projects with which they were concerned were far removed from the realm of construction of concentration camp installations but were for humanitarian objectives. The defendant further contends that office C II/2 was concerned solely with the coordination of such construction with local zoning and building regulations. He further contends that his office only worked out general basic plans for hospitals and ambulances, and denies that he ever participated in the planning of construction of any hospitals or other buildings, or any concentration camps or concentration camp installations.

The Tribunal does not agree with such contentions. The evidence clearly shows that concentration camp hospitals were constructed, and that plans and drawings for such construction were prepared in the office C II. The prosecution offered in evidence Document NO-4470, Pros. Ex. 662, which was a drawing and plan for a hospital and sick bay for inmates of Auschwitz concentration camp. This drawing and plan was signed by the defendant himself. The prosecution also offered in evidence Document NO-4471, Pros. Ex. 663, which was a drawing and plan signed by the defendant himself for a sick bay for the troops at Auschwitz concentration camp. If the defendant and his office were competent to draft and approve such drawings and plans for such installations, the Tribunal may reasonably find that all other installations necessary for the maintenance and construction of concentration camps also emanated from this office. Since the defendant is an expert architect, the Tribunal concludes that the defendant not only planned the construction of such projects at Auschwitz, but that he supervised the progress of construction as any architect would do.

The concentration camps under Amtsgruppe D of the WVHA operated and maintained gas chambers and crematories in which thousands of people were exterminated and cremated. Some of the concentration camps had several of such installations. These installations were planned, erected, and maintained by some competent authority and Amt of the WVHA. Since Amt C II was the supreme authority for the planning and building of special tasks, the logical conclusion of the Tribunal is that such installations were planned and erected under the authority of Amt C II of the WVHA. The Tribunal further concludes that the very nature of such installations and their continued maintenance constituted knowledge of the purposes for which they were to be used.

The defendant's knowledge of the classes of inmates in concentration camps is shown by the following testimony of the defendant himself:

"According to my opinion there is a big difference between a political prisoner and a criminal. I myself was definitely convinced that there were political prisoners in the concentration camps, prisoners whom the state wanted to get rid of or at least secure for special reasons. In my opinion the criminals were in the jails, whereas all the other ones were in the concentration camps." (*R. 3387.*)

The Tribunal finds that the defendant was also aware that inmate labor was used in construction projects authorized and planned by Amt C II and other offices within Amtsgruppe C. He testified that he saw Kammler's letter to Gluecks, dated 10 March 1942, concerning the assignment of prisoners of war, inmates, and Jews, to carry out the construction program of Amtsgruppe C but that no action was taken because it was not in his field of tasks. (*NO-1292, Pros. Ex. 56, and Record page 3367.*) In the preface to this document, the following appears:

"Subject: Employment of prisoners, prisoners of war, Jews, etc. to carry out the construction program of the SS Economic Administrative Main Office, Amtsgruppe C, 1942, in the third year of war."

A summary attached to the document shows the required workers listed under the various construction projects and the number of prisoners, and prisoners of war, Jews, etc., required to carry out the construction program for 1942. The summary shows conclusively that thousands of inmates, Jews, and prisoners of war, were to be used for construction projects at the various concentration camps. These included construction projects at Ravensbrueck, Oranienburg, Natzweiler, Wewelsburg, Dachau, Gross-Rosen, Auschwitz, Freudenthal, Weimar-Buchenwald, Neuengamme, Flossenbuerg, Gieshuebel, Krondorf Sued, Gruen, Neu-Rohlau, Mauthausen, Gusen, Brettstein, Lodz, and Poznan. The last entry in the summary was a request for 5,000 prisoners of war to be used at Danzig-Stutthof. Thus, the defendant Kiefer was officially put on notice that concentration camp labor, Jews and prisoners of war, were the means whereby his architectural plans were transferred from blueprints into actual constructions. The defendant contends that even though he might have read the document at the time he was totally ignorant of concentration camp conditions.

The Tribunal cannot accept this contention of the defendant. He was directly subordinate to Kammler, chief of Amtsgruppe C, and was also his deputy. As to his deputyship there can be no

doubt. Kammler's appointment of the defendant as his deputy was in writing, and dated 8 September 1943, and states: "SS Sturmbannfuhrer Kiefer will in principle act as my deputy until further notice." (*NO-1244, Pros. Ex. 45.*)

The evidence clearly discloses that Kammler was thoroughly aware of the conditions in the concentration camps, and of the atrocities, murders, and ill-treatment of the inmates.

The Tribunal concludes that the defendant knew what Kammler knew, since he was his deputy and chief of Amt C II, and his duties required that he have such knowledge. The Tribunal further concludes that a person so close to Kammler and directly subordinate to him and designated by Kammler as his deputy would be advised of these facts. Such knowledge would of necessity entail familiarity with the facts as to the labor conditions on construction jobs, the type of labor employed, and the treatment accorded such labor. If these facts were known to him, the defendant would have had to know of the atrocities and inhuman tortures visited upon concentration camp inmates through Amt C II, Amtsgruppe C, and the WVHA.

Another source of information for the defendant was the weekly conferences of chiefs of offices and experts. These conferences were held, and the Tribunal concludes that they were thorough and detailed. Kammler's position and duties increased to the point where he was forced to devote less and less time to Amt C II, and finally he was forced to move his offices from the WVHA building. Subsequently, the only contact between himself and the collaborators in Amtsgruppe C, was in the conferences with the Amt Chiefs (*R. 3336*). During these conferences Kiefer had ample opportunity to learn of the existence of the gas chambers and the crematories, the use of slave labor, the treatment of concentration camp inmates, the destruction of the Warsaw ghetto, and many other instances of the criminality of the organization of which he was an integral part.

The evidence clearly discloses that the defendant did not make the slightest effort to improve these conditions, or failing in that, to sever his relationship with the organization. His activities and willing cooperation clearly shows the voluntary manner in which he worked as an Amt chief of the WVHA. The Tribunal has given careful consideration to all the contentions made by the defendant, and all the evidence and documents offered by him to rebut the case of the prosecution, but the Tribunal cannot accept his version as to his knowledge, duties, and activities as Amt chief of office C II in the WVHA.

CONCLUSIONS

The Tribunal therefore concludes (bearing in mind the presumption of innocence of the defendant and the burden of proof required of the prosecution) that the evidence clearly established beyond a reasonable doubt that the defendant Max Kiefer is guilty of war crimes and crimes against humanity, as charged in counts two and three of the indictment. He did not function in the role of the actual executioner, but was an office chief in the WVHA, which organization carried out the functions of extracting labor and personal resources from millions of unfortunate concentration camp inmates, Jews, and prisoners of war. His office duties and activities constituted one of the integral cogs in the evil machine of human destruction. His high professional learning, skill, and vast knowledge was prostituted to the needs of this organization. The planning and erection of a vast number of SS structures, both in the concentration camps and outside, would not have been possible without the contribution of the defendant Kiefer, as one whose services were most valuable and indispensable.

COUNT FOUR

The defendant admits that he was a member of the SS from 1935 and that he continued to be a member of the SS until the end. His contention that he was drafted into the SS in 1942 cannot be accepted by the Tribunal. His continued membership in the organization, his outstanding record in Amt C II, and all the other evidence in the case leads the Tribunal to the conclusion that the defendant voluntarily joined the SS and voluntarily remained in such organization until the end and participated in the commission of war crimes and crimes against humanity. He remained in such organization with knowledge of its criminal activities subsequent to September 1, 1939. Therefore, the Tribunal finds and adjudges the defendant Kiefer guilty under count four of the indictment.

FRANZ EIRENSCHMALZ

Defendant Eirenschmalz was born 20 October 1901, at Munich. He joined the General SS in July 1931. On 1 October, 1932, the defendant received a fulltime position with the SS in the administrative office. He did some outside construction work subsequent to occupying this position, but returned to the administration office and resumed his work in June 1934. His immediate

superior in the administration office of the SS in 1934 was the defendant Pohl. From July 1934 until approximately the autumn of 1939, he was in the office, "Budget and Construction [Buildings]". In 1939, he was transferred to the Main Department [SS Operational Main Office] for the construction management of the Waffen SS and administration, as chief of Amt V/5. His immediate superior in this office was the defendant Frank. On 1 February, 1943, the Main Office, budget and buildings, was incorporated within the WVHA, and the defendant joined this organization as chief of Amt C VI of Amtsgruppe C. He was subordinate to Kammler, chief of Amtsgruppe C. Sometime between 1 February, 1942 and February 1943, he was appointed deputy chief of Amtsgruppe C, or Kammler's deputy. In May 1943, owing to illness, he entered a hospital and did not return to work with the WVHA until January 1944, and upon his return he was no longer deputy for Kammler. At all times between 1 February, 1942 and May 1945, he was chief of Amt C VI of Amtsgruppe C of the WVHA.

In order for the Tribunal to arrive at the truth in this case, a close scrutiny of the evidence was required. Witnesses made affidavits and later repudiated their contents by other affidavits, or while testifying as a witness. The defendant Eirenschmalz took the stand and testified in his own defense. He has utterly failed to impress the Tribunal with the truthfulness of his testimony. On the contrary, his answers to direct and simple questions were most evasive and indefinite. After much insistence, when a direct answer was finally obtained from him by either the Tribunal or counsel, he would later repudiate such an answer. In his testimony may be seen so many contradictions and evasive answers that the Tribunal was unable to determine the facts from his testimony. After a careful review of all of the evidence, the Tribunal arrived at its own conclusions as to the true facts of this case.

Amt C VI of Amtsgruppe C of the WVHA was subdivided into the following divisions:

Amt C VI/1, Building Material and Maintenance (Construction Maintenance) [of Waffen and Allgemeine SS real estate].

Amt C VI/2, Plant economy.

Amt C VI/3, Auditing and price control (after 1943, Price Control).

The prosecution offered in evidence Document NO-2616, Prosecution Exhibit 523, which was an affidavit made by the defendant Pohl, and the Tribunal deems it expedient to here incorporate certain portions of this affidavit:

"9. Amtsgruppe C of the WVHA arose from Amt II Buildings of the former Main Office of Budget and Buildings. SS Obergruppenfuehrer Dr. Kammler was chief of Amtsgruppe C from 1 February 1942 until the capitulation in May 1945.

"10. Amtsgruppe C was the highest construction office of the SS. Among other things, guiding principles concerning all constructions carried out within the SS were laid down by this office and passed on to subordinate construction offices and construction inspection sections.

"11. Furthermore, it was the duty of Amtsgruppe C to calculate the total building-material requirements of all construction inspection sections and to send requisition for this total requirement to the Speer Armaments Ministry. That was done once a year, and after Kammler had received these allocations of materials (quotas) from the Speer Armaments Ministry, he distributed them, according to requirements to the individual construction inspection sections. Thereby Kammler was given control over the construction undertaken by the offices carrying out the building as they were not legally able nor allowed to build without an official quota allocation being made by Amtsgruppe C.

"12. Kammler had a further means of control over the construction activity of the SS because the expenditures of the offices subordinate to him were examined by him; this also included an examination of prices. The above mentioned examinations were carried out by office VI of Amtsgruppe C. Standartenfuehrer Eirenschmalz was chief of this office from February 1942 until the capitulation.

* * * * *

"14. The new construction and repair of concentration camps was in principle the task of Amtsgruppe C, and its subordinate offices.

"15. It was the duty of the budget office in the former Main Office for Budget and Buildings to put those sums of money which were necessary for the establishment of concentration camps at the disposal of the Inspector of Concentration Camps Eicke. These sums were fixed in the SS Budget. Eicke had his own construction section with which he carried out the construction of concentration camps.

"16. I remember that the Auschwitz concentration camp was built in 1943. This work was carried out by the local construction inspectorate section (Construction Inspectorate Section Auschwitz), after the necessary allocations of material had been made to this construction inspection section by Amtsgruppe C of the Economic and Administrative Main Office.

"17. The gas chamber installations and the crematories in the Auschwitz concentration camp were built by the method described in paragraph 16.

"18. The statement of accounts for these constructions was forwarded to office VI of Amtsgruppe C for preliminary examination for the Supreme Auditing Court of the Reich or else they were submitted to the auditors of Amt C VI. That was the prescribed official channel for all construction inspectorate sections which were responsible to Amtsgruppe C of the Economic and Administrative Main Office.

"19. The liquidation of Jews in the Auschwitz concentration camp in the years 1942 and 1943, when Rudolf Hoess was commander, was known to me, through Himmler's speech, and I myself also saw the gas chambers and the crematory in Auschwitz in the summer of 1944.

"20. The construction, that is to say, the extension of the Riga concentration camp was undertaken during the second half of 1942 or the beginning of 1943 as far as I know. This work was ordered by the Reich Security Main Office, and the carrying out of the project was undertaken and completed by the locally competent construction inspection section, as described above in paragraphs 16 and 19.

"21. Standartenfuehrer Franz Eirenschmalz was chief of office C VI from February 1942 until May 1945. He had been an associate of mine since 3 February 1934, with interruptions. From January 1943 until May 1943 he was deputy chief of Amtsgruppe C.

* * * * *

"32. * * * Amtsgruppe C had a number of subordinate offices (construction inspectorates, etc.) in the Reich territory as well as in the occupied territories."

The defendant's activities in the construction and maintenance of concentration camps prior to the formation of the WVHA, is shown from the following documents:

Affidavit of Heinrich Ernst Krone (*NO-2197, Pros. Ex. 53*), which reads in part as follows:

"In August 1937 I was employed in the central construction management at Buchenwald as a specialist in technical branches. I was subordinate to the SS Administration Office and the section for building under Eirenschmalz. The protective electric fence was built by this central construction management under order of Eicke. The crematory in Buchenwald was built in 1939 or 1940 by a private contractor.

"In February 1943 I was transferred to Belgrade, where I did maintenance and building special jobs under the direction

of office group C of the SS Economist [beim SS Wirtschaftler], who was head of the building section of group C and who was subordinate to office group C in Berlin.

"During the last years of the war it was the job of office group C to erect prisoner of war camps. The maintenance and repair of all buildings, particularly of those pertaining to the concentration camps, was Eirenschmalz' concern. He had to be kept informed of every repair job in concentration camps and also if gas chambers or crematories failed to function or needed repairs it was his job to have the repairs carried out."

Later in the same affidavit, the affiant outlines some of the duties of the defendant Eirenschmalz in connection with concentration camps after the creation of the WVHA, as follows:

"In February 1944 I heard for the first time, through the head of the Building Inspectorate, of an order that prisoner of war camps were to be erected by office group C. I know that a small prisoner of war camp was to be built somewhere, and the exact building instructions regarding measurements, projected buildings, washing facilities, etc., were furnished by office group C. During the last years of the war it was the job of office group C to erect prisoner of war camps."

The prosecution offered in evidence an affidavit of Wolfgang Grosch (*NO-2322, Pros. Ex. 513*) which tended to show the duties and activities of the defendant Eirenschmalz in regard to the construction and maintenance of concentration camps and SS projects before and after the formation of the WVHA. The pertinent parts are as follows:

"The first time I heard about Standartenfuehrer Eirenschmalz was in the middle of 1939. At that time Eirenschmalz was chief of the entire building operations within the SS Administrative Office. This position was similar to the position which Gruppenfuehrer Kammler had later on in the Economic and Administrative Main Office. Among other things it was Eirenschmalz' job to pay out the moneys for building projects of the SS Death Head units, and the General SS. It was his job to approve these moneys and to have them paid. Eirenschmalz remained in this position until about 1940 and then moved to Berlin to work with the Budget and Buildings Main Office. In this capacity he was assigned the tasks which he later had to carry out within the Economic and Administrative Main Office, Amt C VI.

"After the reorganization in 1942, and after the foundation of the Economic and Administrative Main Office, he became chief of Amt C VI, and remained there until the end of the war. About spring or summer of 1943, by Kammler's or Pohl's

orders he became deputy chief of office group C and remained in this position, while still holding office as office chief C VI, up to the end of 1943.

"During the time he was Kammler's deputy, Eirenschmalz signed the official mail 'by order of Kammler'. Since the foundation of the Economic and Administrative Main Office, Eirenschmalz, among other things, was charged with granting subsidies for keeping up building operation of all building projects of the Waffen SS, which also included the concentration camps. In this capacity he had to grant annual subsidies for keeping up the building operations and for repair work. The bills obtained in return for these annual payments were sent to him afterwards as vouchers. Eirenschmalz knew, by way of the bills which he had to examine, when gas chambers or crematories or other concentration camp establishments were in need of repair.

"Eirenschmalz' position in the SS Administrative Office was that of the supreme chief for all questions concerning building operations. Within the office budget and buildings his tasks were restricted to the tasks carried out by the later office C VI, which he continued to carry out up to the end, in the Economic and Administrative Main Office."

The Tribunal is mindful of the testimony of this affiant when called upon to testify on cross-examination on behalf of the defendant. Even though he repudiated certain parts of this affidavit, from a review of all the evidence in the case, the Tribunal is of the opinion that this affidavit, upon the whole, speaks the truth.

The prosecution also offered in evidence another affidavit of Wolfgang Grosch (*NO-2154, Pros. Ex. 52*). The pertinent parts are as follows:

"1 February 1938, I was attached to SS Administrative Office with Eirenschmalz as immediate superior, where I remained until November, 1941, when I was transferred to the Central Russian Office. I was in Russia during the entire life of the WVHA.

"Amtsgruppe C was responsible for the construction of gas chambers and crematories when such construction had been demanded by Amtsgruppe D. The official channels were as follows: Amtsgruppe D contacted Amtsgruppe C. Amt C I drew up the building plans for these installations as far as the construction work was concerned and passed those on to Amt C III, who worked on the engineering section of the construction, the airing of gas chambers or the appliances for the gas to enter the chamber. Amt C III then handed these plans to a private firm which was to supply the special machinery of the

cremating furnaces. Further on, through official channels, C III informed C V which passed on the order via the public works administrative division to the central public works department. The central public works department then handed the construction assignment to the respective construction department of the concentration camp which undertook the actual building with detainees assigned to them by D II. Amtsgruppe D gave orders and instructions to Amtsgruppe C with regard to the required building space and the purpose of these constructions. The actual consigner for the gas chambers and crematories was Amtsgruppe D."

Other evidence discloses that while the defendant Eirenschmalz was in the Main Office Budget and Buildings, he ordered the erection of a crematory at Dachau in the summer of 1940 (*NO-4444, Pros. Ex. 641*), and that at approximately the same time he ordered the construction of a crematory at Buchenwald (*NO-4400 and NO-4401, Pros. Exs. 649 and 650, respectively*). The defendant Eirenschmalz emphatically disputed all evidence that he had any authority or gave any orders or participated in any way in the maintenance or construction of any installations of concentration camps.

The defendant admitted upon cross-examination that he visited Dachau in 1936 and 1937, and quite often thereafter he visited the garrison office at Dachau. He further admitted that on these visits to Dachau he sometimes saw the inmates working. He also admitted that he visited concentration camp Sachsenhausen, but that he never entered the protective custody part of the camp. He also admitted that he visited concentration camp Oranienburg, and saw inmates working there. He admitted that he visited Buchenwald in 1940 or 1941, but did not enter the protective custody part of the camp. He admitted that he visited concentration camp Ravensbrueck and talked to the construction manager of the clothing depot, but would not say how many times he had visited this camp. He testified:

"Q. When you made the visits to these camps that we have been talking about, you usually went on business, didn't you, that had something to do with your office affairs?

"A. Yes."

He also admitted that he visited Auschwitz on one occasion in 1943 or 1944. He said that he was not sure that he saw inmates working in the armament plant on this visit. He denied ever visiting the concentration camps at Neuengamme, Stutthof, Natzweiler, Gross-Rosen, Mauthausen, and Bergen-Belsen. He did admit, however, that in 1940 and 1941 he visited Lublin for the purpose of discussing construction matters for the Waffen SS, but did not

see any inmates working while there. He denied any knowledge of foreigners or prisoners of war being confined in concentration camps, but assumed that Jews were confined therein. He testified:

“Q. You knew, did you not, that the construction that was carried out by Amtsgruppe C in the concentration camps used inmate labor?”

“A. Yes.”

The defendant denied any knowledge of the fact that Amtsgruppe W used inmate labor, but said that he could reach that assumption, although he did not know anything about the allocation of inmate labor. He emphatically denied having heard at any time during the war that anyone was mistreated or killed in a concentration camp, and stated that at no time was he informed that inmates were being underfed and undernourished in any concentration camp.

From all of the evidence in the case the Tribunal concludes the following: the defendant Franz Eirenschmalz was a member of the SS from an early date, and attained the rank of colonel in the Waffen SS. Over a long period of time, prior to the war, and prior to the organization of the WVHA and all during the war, he was occupied directly with construction matters of the SS, including the concentration camps. Throughout the entire trial he has endeavored to hide in every way possible his responsibility and participation in concentration camp construction-maintenance affairs. The evidence clearly discloses his active participation in matters pertaining to the operation, construction, and maintenance of concentration camps located in the German Reich and in the occupied territories. His chief, the defendant Pohl, recognized his worth in the fields of task assigned to him in the WVHA, and when recommending his promotion gave a glowing account of his achievements and his loyalty to his tasks. The evidence clearly discloses that at all times, as chief of Amt C VI, he bore a full measure of responsibility for concentration camp construction matters, including the construction and maintenance of crematories and gas chambers. From his own testimony, it is clear that he visited a great number of the concentration camps at various times; that he saw and had an opportunity of seeing the inmates as they worked, the conditions under which they worked, and the housing conditions of the various camps.

The Tribunal concludes that the knowledge of the defendant concerning the erection and maintenance of the gas chambers and crematories in the various concentration camps put him upon actual notice of the intended use of these installations. Owing to the high position he held in the WVHA, we are forced to conclude that defendant Eirenschmalz had actual knowledge of

“Action Reinhardt,” and the, “Final Solution of the Jewish Problem,” and that he knew that numberless thousands of unfortunate Jews and nationals of occupied territories were exterminated in the gas chambers and crematories erected and maintained under the supervision of his office and other offices of the WVHA. His activities in the SS, both before and after the organization of the WVHA, constituted a material cog in the machinery necessary for the operation of the concentration camps.

The Tribunal does not find that he was a so-called, “trigger man” in the deaths and atrocities committed on unfortunate people in the concentration camps, but that he, with others, operated and maintained the gigantic enterprises which resulted in the unlawful deaths of millions of slave laborers from occupied territories and prisoners of war.

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that the defendant Eirenschmalz was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving the commission of war crimes and crimes against humanity, and finds him guilty as charged in counts two and three of the indictment.

COUNT FOUR

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that defendant Eirenschmalz is guilty of belonging to the SS, an organization declared to be criminal by the International Military Tribunal, and as charged in count four of the indictment.

KARL SOMMER

This defendant was born 25 March 1915 in Cologne; he attended the elementary schools and four classes of high school; he belonged neither to the NSDAP, nor any other political party. He joined the Allgemeine SS in the last part of 1933 and became an SS private on 30 January 1934. His last rank in the Allgemeine SS was Obersturmfuehrer. In March 1941, Sommer was appointed to the Inmate Labor Assignment Office of the Deutsche Erd- und Steinwerke, an SS enterprise. In this office he had the task of supervising inmate labor assignments, together with the supervision of the general welfare of the inmates. In October 1941, he succeeded to the head of the Department for Inmate Labor Assignment. Amt D II of the WVHA was called, “Labor Allocation of Inmates”, and it was the task of Amt D II to arrange the labor allocation of inmates who were confined in concentration

camps. Originally, labor forces were made available only for enterprises operated by the SS; later, after August or September of 1942, inmates were turned over to the industries inside of Germany, as well as in the occupied territories. The defendant Sommer was released from the Waffen SS in 1941, by reason of incapacity caused by a foot wound. He was then assigned to DEST on 1 March, 1941. He met Pohl about the end of 1941, and met Maurer early in 1942. Later Mumenthey secured the appointment of Sommer to office D II, as collaborator of inmate labor assignment with Maurer. He entered upon his duties with D II on 5 May 1942, and worked with this Amt until about April 1945. He was first Maurer's co-worker, and at the end of 1943 became Maurer's deputy. He lived in Berlin until 1943, then moved his permanent residence to Oranienburg.

*THE ALLOCATION OF INMATE LABOR IN AMT D II OF
THE WVHA*

From all of the evidence in the case, including the testimony of the defendant, he was thoroughly familiar with every detail of Amt D II; its fields of task; training of inmates; allocation of labor for all inmates, wherever located; the amount and kind of work performed by them, their living conditions, treatment, food, clothing, and housing; the camps from which they were assigned, and the industries to which they were assigned; the payments made by the various industries for their work, the payment for work, if any, to the inmates, and the collection of the money for the work of the inmates from the various industries.

The Tribunal was greatly impressed by the detailed information which the defendant had in regard to every aspect of inmate labor and its allocation. The defendant testified that after March 1944 Maurer told him that he could designate himself as a chief of a Main Department, which he did, and at the end of 1942, or early in 1943, he became the deputy of Maurer, chief of Amt D II. By order of Gluecks he was permitted to wear slack trousers while in uniform and at other times to wear civilian clothing on account of the wound in his foot. He further testified that he never knew of any prisoners being confined in a concentration camp except political prisoners and criminal inmates. Later, he saw some Russian prisoners of war that were volunteers, he claimed. The defendant testified that he personally visited every one of the concentration camps during his work with Amt D II; that he remembered clearly his visits to Auschwitz in August 1943 and November 1944; and Bergen-Belsen in 1944, and again in 1945. He further testified that during a conversation with Gluecks, the

chief of Amtsgruppe D and Inspector of the Concentration Camps, he was informed about the program for the extermination of the Jews in Auschwitz, but that he did not participate in this program in any way, even though he was asked by Gluecks to do so. Immediately after this conversation with Gluecks, Pohl gave to Maurer an order concerning this program at Auschwitz. He further testified that all Amt chiefs of Amtsgruppe D had the permanent permission to enter and visit the concentration camps.

The prosecution offered in evidence an affidavit of the defendant Sommer (*NO-1065, Pros. Ex. 304*), which disclosed that the defendant personally knew of the allocation of between 500,000 and 600,000 inmate laborers from the concentration camps to the various plants and industries. This affidavit further disclosed that prisoners were requested by the plants from Amtsgruppe D (Maurer and Gluecks) or in case of personal connections, from Pohl.

The evidence disclosed that from Amt D II, the defendant Sommer furnished guards for the prisoners; that he made tabulations computing the wages due from DAW for concentration camp labor, also, that he reported that 36,784 prisoners from Lublin were supplied during July 1944 to DAW and that DAW was due to pay the sum of 55,176 Reichsmarks for such labor (*NO-4181, Pros. Ex. 710*).

From another affidavit of the defendant (*NO-2739, Pros. Ex. 630*), it is clearly shown that the defendant was thoroughly familiar with the program for the extermination of the Jews at Auschwitz and of the illegal medical experiments which were carried out in the various concentration camps.

The evidence further clearly discloses that the defendant was familiar with "Action Reinhardt," and was guilty of personally participating in this illegal and unwarranted action.

The evidence of the prosecution witness Jerzy Bielski, an inmate at Auschwitz from August 1942 until October 1944, tended to show that the defendant Sommer personally murdered two inmates at Auschwitz. After a careful review of all the evidence the Tribunal is of the opinion that the defendant Sommer was not guilty of these two atrocious murders and that the witness Bielski was mistaken as to the identity of the person responsible for such crimes.

There is evidence in the case which tends to show that the defendant Sommer actually knew of the existence of crematories and gas chambers in the concentration camps, and the purposes for which they were used.

Wolfgang Sanner, witness for the prosecution, testified that during 1944 and 1945 he was an inmate and was working on labor

assignments at Mauthausen concentration camp. He received three letters from Amt D II signed by the defendant. In these letters Sommer gave the names of approximately twelve inmates, with instructions that they were not to be transferred to other camps and were not to be employed in camp Mauthausen. Within three to five days after receiving these letters, the inmates named therein were reported dead. The causes of death in these reports were, "shot while trying to escape," and "suicide by running into electrically charged wire."

The Tribunal does not deem it necessary to again enumerate in this judgment, the horrors and deaths of concentration camp inmates that resulted from inhumane treatment, beatings, tortures, starvation, murders, shootings, hangings, gassings, and burnings—nor would any useful purpose be served by again describing the millions of deaths and wholesale pillage and unlawful confiscation of property resulting from "Action Reinhardt," and the, "Final Solution of the Jewish Problem." Reference is hereby made to other parts of this judgment for these details.

Amt D II and the defendant Sommer played an important part in the commission of these atrocities and murders, and for such participation on his part, the defendant Sommer is criminally responsible.

The defendant Sommer testified at great length in his own defense, and attempted in various ways to answer and explain the evidence offered on the part of the prosecution. He offered documents, affidavits, and witnesses, in an effort to show a lack of criminal responsibility on his part in the operation of Amt D II of the WVHA. He emphatically denied all evidence which would tend to show guilt on his part of all charges in the indictment.

The Tribunal has carefully considered the evidence brought to its attention by the defendant, and has carefully and thoughtfully considered the closing argument of his counsel. But the Tribunal cannot and does not accept as true the defendant's contentions that his actions in D II did not involve criminal responsibility.

Without attempting to pass upon his guilt or innocence, the Tribunal deplores the fact that Gerhard Maurer was not apprehended prior to the commencement of this case, in order that his responsibility, if any, for the operation of D II could be determined.

CONCLUSIONS

The Tribunal finds and adjudges from the evidence, and beyond a reasonable doubt, that the defendant Karl Sommer is guilty of the charges contained in counts two and three of the indictment.

COUNT FOUR

From all of the evidence in the case, including the admissions of the defendant, the Tribunal finds and adjudges, beyond a reasonable doubt, that the defendant Karl Sommer is guilty of the charges contained in count four of the indictment.

HERMANN POOK

Defendant Pook was born 1 May 1901 in Berlin; after completing his education at the elementary schools, he studied dentistry from 1921 to 1925 at the University of Berlin and passed his State examination in 1925. In 1927 he received his doctor's degree in Berlin and began practice as an independent dentist in Berlin-Lichterfelde. He joined the NSDAP in 1933, and in the same year became a member of the Reiter [mounted] SS. He was called into the Waffen SS on 1 October 1940, and the highest rank attained by him in the Waffen SS was Obersturmbannfuehrer (lieutenant colonel). On 6 September 1943, after completing a number of duty assignments for the Waffen SS, he was transferred to the SS Economic and Administrative Main Office, Amt D III of Amtsgruppe D, as chief dental officer, and held this position until the end of the war.

The order transferring him to the WVHA is as follows:

"SS Obersturmbannfuehrer Hermann Pook, born on 1 May 1901, at present Panzer Grenadier division 'Hohenstaufen', division staff, is transferred to the SS Main Economic and Administrative Office, Amtsgruppe D III, Oranienburg, in the capacity as dentist in charge, as of September 3, 1943.

"He is to report to the chief of the SS Main Economic and Administrative Office, Oranienburg, SS Obersturmbannfuehrer Lolling." (*NO-1998, Pros. Ex. 574.*)

Thus, from this order it is perfectly clear that he was directly subordinate in the WVHA to Dr. Lolling, chief physician of Amt D III. In his field of tasks, he was subordinated under three channels. He was subordinated to Gruppenfuehrer Gluecks, chief of Amtsgruppe D in military and disciplinary matters. He was subordinated to office XIV of Amtsgruppe D of the FHA [Fuehrungshauptamt], one of the twelve Main Offices of the SS, not connected with the WVHA. The medical office of the Waffen SS, upon its reorganization in the spring of 1943, became Amtsgruppe D of the FHA and was composed of various departments, one of which was office XIV, the dental office. This office was charged with the administration of the dental services for the whole of the SS, and among other things, for the supplying of materials to

dental stations and the staffing of the SS divisions and Main Offices with dental personnel.

The position of chief dental surgeon in Amtsgruppe D of FHA was first occupied by Sturmbannfuehrer Reutter until September 1943 when the defendant Pook succeeded him. The field of tasks in this position of the defendant Pook consisted largely in the following: the channeling of correspondence passing between the camp dentists and office XIV, checking and considering for approval requisitions submitted by camp dentists; forwarding of monthly work, personnel, and gold reports from the camp dentists to office XIV, Lolling's subordinate; and matters relating to dental affairs in concentration camps. He was consulted on questions concerning the transfer and assignment of dental personnel within the concentration camps. He also worked in the Oranienburg dental clinic in dealing with the care of SS members and their dependents. He was also the supervisor of SS concentration camp dentists and camp inmate dentists. He exercised authority of command over the SS camp dentists as well. On page 4044 of the record, the defendant testified as follows:

"If it would have been necessary, and if I would have determined that the SS dentist in that camp had not really carried out his duty, and if I had seen that on the occasion of an inspection, then certainly I would have told him that during my visit, and I would have told him if he was not going to try any harder, then I would have to submit a report to my superior and he would be dismissed or punished."

As to the knowledge that the defendant had of conditions in concentration camps in which he had supervisory and administrative authority, the evidence clearly discloses that he made frequent inspection tours of dental stations located in the various concentration camps and outside labor camps. The defendant vigorously contends and insists that he did not have knowledge of the manner in which the inmates were treated, nor did he have knowledge of conditions prevailing in such concentration camps. Despite his denials, the Tribunal is of the opinion, and so holds, that he was familiar with the atrocious conditions generally prevailing in the concentration camps. In January 1944, he visited Mauthausen concentration camp in company with Lolling, his superior, and spent the evening there. On at least one or more occasions he visited Buchenwald concentration camp, his last visit in this camp being in March 1945, just prior to the capitulation.

It is a matter of public knowledge from a report made by a United States Congressional Committee in April of the same year, and from motion pictures taken of this camp by the Allied armies upon its capture, and other documentary evidence in the case,

that this camp constituted an extermination factory of civilians of occupied territories, Jews, and prisoners of war; that these unfortunate people were exterminated by starvations, beatings, tortures, incredibly crowded sleeping conditions, and sickness following inhumane treatment. Quoting from the United States Congressional Committee Report, which was offered in evidence, the following appears:

“Pictures and descriptions of the conditions at the camp cannot adequately portray what we saw there, and it is only when the stench of the camp is smelled that anyone can have complete appreciation of the depths of degradation to which the German Nazi Government and those responsible for it and its agencies, organizations, and practices have dropped in their treatment of those who failed to embrace the doctrines of the master race.” (*L-159, Pros. Ex. 177.*)

These terrible conditions were found the month following the last visit to this camp by the defendant, yet the defendant denies that he noticed anything unusual while there. He further admits that he visited the Dora labor camps in March 1944, and that he inspected his dental station at Ohrdruf as late as March 1945, but still insisted that he saw nothing on these visits that would put him upon notice of the horrible conditions and inhumane measures that were being administered to the inmates.

The prosecution offered in evidence an affidavit of Dr. Werner Greunuss (*NO-2156, Pros. Ex. 515*), in regard to a visit of the defendant to labor camp number 3, which was concerned with the construction of the Fuehrer's headquarters at Ohrdruf. The Tribunal quotes the following portions of this affidavit:

“I remember a visit of Dr. Pook, the chief dental surgeon for all the concentration camps, who came from Berlin to inspect the installation for dental surgery at S III. He said that the treatment as applied was much too humane, that anaesthetics would have to be dispensed with, and that generally speaking, more rigorous dental work was to be carried out. Besides only really essential treatment should be given to these prisoners. Supply of material, which was under his control and for which he, as the highest instance, was responsible, were unsatisfactory in the camp at Ohrdruf, and I could only obtain this material with the greatest difficulty through channels from Buchenwald. Dr. Pook, to whom I presented my exact records, made fun of these civilian bureaucratic methods and told me that such a conscientious treatment of these people was out of the question. All my efforts to obtain dental treatment for the prisoners he termed ridiculous, and he gave orders that only essential work was to be performed, which meant that only

tooth extractions were to be undertaken and no other treatment at all. These tooth extractions were to be carried out without any local anaesthesia. Many of these prisoners had no more teeth and I was forbidden by Dr. Pook to have sets of artificial teeth made. Consequently many of these prisoners were not able to digest their food properly, and this resulted in serious disorders of the stomach and the intestines, which in many cases led to death.

"The gold fillings of deceased prisoners were removed by a prisoner dentist and then turned over to the SS dentist of the camp at Ohrdruf, who forwarded it to Barnewald." The defendant emphatically denies the truth of this affidavit, contends that he had no such knowledge and that no such orders were given by him.

The Tribunal concludes that this affidavit portrays the true conditions prevailing in this camp and that the defendant's attitude towards these unfortunate people was as stated therein. Other evidence in the case corroborates the Greunuss affidavit. The defendant admitted that he heard of the extermination program of the SS sometime during the summer of 1944. After hearing of this program, he visited the concentration camp Auschwitz and had the opportunity of seeing, and did see, the mortality charts kept by Lolling. However, he denies that he noticed from these charts the actual death rate. It should be noted that at the time of his visit to the Auschwitz concentration camp the program of extermination was at its peak. In regard to the SS program of the final solution of the Jewish problem and the planned extermination of inferior races and political opponents of the Nazi regime, it would follow that thought was given as to what would be done with their personal property and valuables. The answer to this question was to confiscate and steal everything of value that could be obtained from their personal belongings and their bodies.

The International Military Tribunal in its judgment against Goering and others, found the following:

"Evidence was given of the treatment of the inmates before and after their extermination. There was testimony that the hair of women victims was cut off before they were killed and shipped to Germany to be used in the manufacture of mattresses. The clothes, money, and valuables of the inmates were also salvaged and sent to the appropriate agencies for disposition. After the extermination, the gold teeth and fillings were taken from the heads of the corpses and sent to the Reich Bank." *

* Trial of the Major War Criminals, *op. cit. supra*, vol. 1, p. 252.

By an order of Himmler, dated 23 September 1940, gold was to be removed from the teeth of deceased concentration camp inmates for the benefit of the Reich. The defendant Pook admitted knowledge of this order, but denied that he participated in the carrying out of this order, saying:

"As a leading dentist, I had nothing to do with the removal of gold teeth as far as people were concerned who had died natural deaths. As far as removal of gold was concerned from people who had been killed in the extermination programs, there was no question about that. I had no knowledge of the extermination program, and these actions. Therefore, I couldn't know anything at all about the removal of gold teeth either."
(*R. 3917*)

The Tribunal concludes from all the evidence that the extermination program was at least in part an SS task. This program required many agencies and many SS responsible persons to carry it out and to conclude it. From the time that the subjects for extermination were collected to the time of their final extermination in the gas chambers and crematories, various individuals had specific tasks assigned to them as their duties in carrying out this program. One of the final steps was to take from the mouths of the gassed victims the remaining vestige of value to the Reich, the gold from their teeth. Thus, when the defendant and his subordinates had completed their task of removing this gold, the flaming mouths of the crematory completed the program.

The Tribunal finds from the evidence, beyond a reasonable doubt, that the defendant Pook in his capacity as the chief dentist of the WVHA had constructive knowledge of the policy of extermination as carried out in the concentration camps by the SS, and, as his part therein he was charged with the confiscation of the gold from the mouths of the subjects and was directly responsible as one of the participants in such a program.

The Tribunal will not deal with "Action Reinhardt," at this point as a separate and distinct action, but has made its findings as to this defendant from the over-all picture of the SS extermination program. The confiscation of the dental gold of deceased concentration camp inmates was directly tied into and made a part of the extermination program and "Action Reinhardt."

CONCLUSIONS

The Tribunal finds beyond a reasonable doubt from the evidence in this case that the defendant Pook was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving the commission of

war crimes and crimes against humanity, as charged in counts two and three of the indictment.

COUNT FOUR

The Tribunal further finds beyond a reasonable doubt that the defendant Pook was a member of the SS after 1 September, 1939, an organization declared criminal by the International Military Tribunal, as charged in the indictment. Therefore, the Tribunal finds and adjudges that the defendant Hermann Pook is guilty as charged in count four of the indictment.

HANS HOHBERG

Hans Hohberg was not a member of the NSDAP and never joined the SS. Educated and trained as an auditor, he was employed under contract by the SS Administration in his professional capacity. He first came into contact with Pohl in 1940 when he was engaged to audit the accounts of the various SS enterprises, and "if possible, to bring order into his companies." Hohberg states that his only superior was the Institute of Public Auditors, and that against his will Pohl made him chief of staff W. He sought to deny that he was chief of staff W, but the defendants Volk and Baier, as well as defense witness Karoli from staff W, all confirmed his (Hohberg's) official position.

The evidence shows that Hohberg's part in the SS industries went far beyond that of a simple auditor. The task of coordinating and directing W industries at the top level was the task of staff W, whose chief, according to the business order of SS WVHA, had many duties. He was economic advisor to Pohl, assisted Pohl in the discharge of his duties of management, and the chiefs of the eight offices in department W were to report to Pohl only after conferring with the chief of staff W on all financial, economic, and other important matters concerning the management of the enterprises. The chief of staff W was to supervise the manner in which all funds and moneys furnished by or through DWB were to be used. He was to supervise business transactions of all SS industries, he was to examine the purchase and sale of all plots of land, and he employed and discharged all employees in staff W. In his testimony Pohl declared that staff W was the instrument which he used as the sole business manager of DWB in the supervision of the economic enterprises.

Hohberg is definitely associated with concentration camps. All W industries obviously were an essential part of the concentration camp system. Himmler, in his Metz speech, declared: "We cannot exist without the business enterprises."

Because he was neither a member of the National Socialist Party nor the SS, Hohberg claims an immunity from responsibility for SS excesses. But he worked for the SS enterprises, he planned for the SS enterprises, he knew the SS enterprises used concentration camp labor, he knew the inmates were unpaid, badly fed, badly treated, yet he continued to work with the SS. He did not wear the SS uniform, but he cooperated and collaborated with the SS as much as if he held high rank in that organization. Having visited many of the concentration camps he cannot plead ignorance as to what transpired within them.

Hohberg showed a great deal of initiative in the development of the SS industries. In fact on the stand he described himself as the godfather of DWB.

Although his aim in Court was to demonstrate what an insignificant part he played in the WVHA set up, he could not resist the pride of pointing out how he completely reorganized the SS industries.

Karoli testified that Hohberg was the expert and economic brain of the enterprises.

When the workshops in the Dachau concentration camp were organized and incorporated into the DAW, it was Hohberg who handled the financial aspects of the transaction and advised Pohl as to what steps should be taken.

Testifying on the matter of remuneration for the use of concentration camp inmates, Hohberg stated: "I saw the amount of daily wages paid for the inmates and as an auditor I had to give my opinion on what these enterprises should pay to the Reich."

As an auditor, Hohberg was not compelled, as he said here, to render an opinion on what the enterprises should pay to the Reich.

Through Hohberg's efforts, the German Lebensmittel, the Textile and Leather Company, and the OSTI—all using inmate labor—were given the form of a company. He was frequently consulted when these enterprises were being founded.

The commanders of the concentration camps functioned under Pohl's direction as works managers of the various economic enterprises. Thus Hohberg had direct contact with the concentration camps, since staff W, of which he was the chief, made the arrangements with concentration camp commanders in handling the various enterprises.

When the matter of transferring armament production to concentration camps was discussed, Hohberg accepted appointment as expert for the WVHA. People desiring to know the details of the transfer of armament enterprises to Neuengamme, Auschwitz, Lublin, and Ravensbrueck, were referred to Hohberg as

being the person in WVHA competent to conduct negotiations.

When the Hermann Goering Works wanted inmate labor, Hohberg attended the conference which considered the ways and means of supplying these inmates. The memoranda written by Hohberg reveals intimate knowledge of concentration camp labor problems.

Hohberg himself testified that he handled the financial, organizational, and legal problems of the economic enterprises.

Hohberg inveighed against the SS, accused Pohl of crimes and expressed indignation at the concentration camp excesses. He testified that he left the WVHA because of his disapproval of its activities. But even after leaving, he accepted a contract from Pohl by which his family received 2,000 RM per month.

In 1944, after having left the WVHA, he carried out successful negotiations with Pohl and obtained the cooperation of the SS enterprises in the production of jet propelled planes.

Staff W played an important part in Action Reinhardt, in the supervision of OSTI, and in handling loans from the Reich funds. Pohl's report to Himmler, which was prepared by Hohberg, listed OSTI under staff W. OSTI is listed as a part of staff W on the chart of WVHA which was signed by Pohl.

The Tribunal has acquitted the defendant Vogt under the indictment and since he also was an auditor, a comparison between him and Hohberg is inevitable. The difference between them lies in the fact that Vogt at no time was anything but an auditor, whereas Hohberg, in addition to being an auditor, was an active participant in the economic enterprises of the SS in the several capacities of chief of staff W, financial director, and economic advisor.

Hohberg testified at great length on his opposition to the Nazi regime and how he participated in the resistance movement. While actually working with the SS enterprises, it is not apparent that he did anything to slow up the juggernaut of oppression over concentration camp inmates. However, after he left the WVHA it is not unlikely that he did lend himself to the underground movement working against the regime and organization with which he had at one time cooperated.

The Tribunal does not deny that Hohberg may have played an active part in that movement and will give that fact due weight.

The Tribunal finds Hohberg guilty under counts two and three of the indictment. He is not charged under count four of the indictment.

HANS BAIER

Hans Baier joined the National Socialist Party on 1 May 1933. In 1937 Pohl induced him to enter the SS and had him transferred from the navy in which he was then serving. From April 1937 until August 1943 Baier conducted instruction courses on SS administration. He states that in these courses he never mentioned concentration camps, but one of his former students, Philipp Grimm, declared in an affidavit that at this school he was taught—"Everything in connection with the administration of troops *in a concentration camp.*"

Baier's work as instructor apparently so well satisfied the demands of Nazi and SS ideology that it brought from Pohl the compliment that Baier's students could be appointed immediately to the Death Head units as administrative leaders.

Baier may not have mentioned concentration camps in his lectures but he could not help knowing about them, since in 1941 he had inmates from the Dachau concentration camp at his very school, employed in enlarging and extending it. Inmates worked there daily.

In August 1943 Baier became chief of staff W of the WVHA, following Hohberg. His counsel states that it is open to discussion whether Baier could be called Dr. Hohberg's successor. But the minutes of the W Chiefs of Amt meeting on 29 September 1943, written up by Dr. Volk, carries this item: "He (Pohl) recalled Standartenfuehrer Baier, commander of the school in Dachau, and appointed him chief of staff W."

As successor to Hohberg, Baier is as much involved as Hohberg in crimes against humanity arising out of his activities as chief of staff W. It is unnecessary to relate again the functions of the staff W chief, since that matter was sufficiently covered in the discussion of Hohberg's case. However, article 8 of the WVHA Code of Procedure may be quoted to show the important role the office of chief of staff W was given in the organization set-up:

"The Chief W."

Article 8

"The chief W is the economic advisor of the chief of the Main Office. In this capacity he is especially responsible for the supervision as well as the economic and financial counselling of the companies and offices; he moreover assists the chief of the Main Office in his leadership tasks."

It has been advanced in Baier's behalf that his work was confined to the spheres of auditing and taxation, but the references in the document books in this case are legion as to Baier's activities beyond that of auditor and tax expert.

On 29 February 1944, Baier received a long report from Weber on the expenditures for prisoners in comparison with the wages paid to free workers. On 3 March 1944, Baier ordered that the various offices involved report to him on the industries employing prisoners.

On 17 March 1944, Maurer of Amtsgruppe D wrote Baier asking for a conference on the subject of wage scales for prisoners in the armament industries.

On 27 March 1944, Baier wrote a memorandum on the, "effects of a pay raise for prisoners working with the Deutsche Ausruestungswerke," (German Equipment Plants). This constant reference to wages for the prisoners is not to be understood as meaning anything for the prisoners, but only increased revenue for the SS. In fact toward the end of the war, Baier had from 5,000,000 to 6,000,000 RM in one account, sums which had been collected from individual enterprises. In an affidavit, made prior to the trial, he admitted that, "the fact that the inmates themselves did not receive any compensation obviously was an exploitation."

One of the most amazing documents presented at the trial on the subject of prisoner labor is a letter sent by the Allach-Munich G.m.b.H., to staff W, demanding reimbursement for losses incurred on account of the absence of prison labor. Part of the letter reads as follows:

"In consequence of the typhoid epidemic which broke out in the Dachau concentration camp in January 1943, no prisoners were available to us as workers from 26 January 1943 up to and including 2 March 1943. On 4, 5, and 6 March 1943 only 20 prisoners worked for us. For years our plant has been completely dependent on prison labor. A sudden withdrawal of these workers as it occurred in January this year, means the closing down of the whole plant.

"We are convinced that the losses incurred by us, through the withdrawal of prisoners in the period from 26 January to the beginning of the month of March, fall under paragraph 2 of the Business Regulations for the Financial Compensation office and should, therefore, be reimbursed.

"Without the typhoid epidemic in January and February 1943 we should have made a profit of about half the amount of the total for the 2d and 3d quarters of 1943, that is to say, about 21,300 RM, because operating conditions, apart from these circumstances, were the same. Instead of this profit we suffered losses of about 10,500 RM. Thus our losses resulting from the shortage of prisoners amounts to about 31,800 RM."

In a letter written by Pohl under the date of 18 February 1944, he states that he charges chief W, SS Oberfuehrer Baier with

certain duties, "regarding the management and supervision of all enterprises which are under the supervision and administration of WVHA."

But it is argued that it was impossible for Baier to exercise any management or direction in business enterprises because commercial law did not permit it. It is not apparent from the evidence in this case that SS enterprises or SS officers were halted from a performance of any self-serving function or deed by commercial law or any other law.

Baier was aware of the long hours of employment to which concentration camp inmates were subjected, having received from Pohl on 22 January 1943, a communication which reads: "I should like to point out that the working time of prisoners, laid down by order, which amounts to 11 hours daily, has to be kept up also during the winter months."

Baier was involved with Volk in the matter of the acquisition of real estate for the proposed concentration camp at Stutthof, already discussed in the Volk opinion.

Baier also had full cognizance of the OSTI operation. On 16 April 1944, he received a report from Dr. Horn on the state of the liquidation of the Ostindustrie G.m.b.H. In one of his reports, Dr. Horn in winding up the affairs of OSTI, declared: "As the SS members are no longer needed they are sent back to the personnel office of the SS Economic and Administration Main Office if there are no other orders from the SS WVHA."

This in itself demonstrates how completely the OSTI was a WVHA activity. The Tribunal does not find that Baier participated in any of the early phases of OSTI, but it does find that his office trafficked in the ill-gotten gains from OSTI.

Baier states that he never visited a concentration camp, even though the Dachau concentration camp was only a 15 minutes' walk from his school. In any event he can scarcely claim ignorance of concentration camps. On 19 January 1944, he signed a document with a notice of Pohl's order converting into concentration camps the forced labor camps at Krakow-Placzow, Lvov, Lublin, and Radom-Blizyn. He does admit having visited some of the DWB factories which employed concentration camp inmates, but declares that he never heard of any irregularities in the treatment of prisoners. He then qualifies this with the statement that he confined his visits to the office rooms of the factory. But even though he never set foot inside a concentration camp, he was satisfied that the inmates were all criminals, having been all duly adjudicated so by authority of the State.

The Tribunal rejects Baier's explanation that he believed all inmates were criminals confined by due process of law. It was

a matter of common public knowledge that merely the expression of opinion, no matter how innocuous, which could be interpreted as adverse to the interests of the Reich or of the Nazi Party, would land one in a concentration camp. It was a matter of general information that populations were brought in from other countries and thrown into concentration camps. That one as close as Baier to concentration camp activities could not know the real state of affairs is simply incredible unless it can be shown that Baier is mentally deficient.

It was not necessary for Baier to visit concentration or labor camps to learn of the dreadful living conditions existing in many of those establishments. Reports were sent to staff W on what was transpiring in the field. One report dated 4 December 1944, and directed to SS Main Economic and Administrative Office staff W, reveals the horrible state of affairs at camp Bisingen:

"The camp was occupied in the first days of October by 1,500, mostly Polish, prisoners. It is situated on an extremely wet meadow, there are no pathways. The ground has become completely bogged; the wetness is almost beyond control. The hygienic installations, which are of the most primitive kind, such as toilets, dispensary, and washrooms, are absolutely inadequate; further, they are too far apart, and hard to reach under these muddy conditions. Consequently, extreme filth and vermin are prevailing, and the health situation has become unjustifiable. On 1 December 1944 there were about 420 persons sick, mostly from diarrhea, general debility, and weakness of the heart. Since the camp has been in operation 233 deaths are on record (*in 8 weeks!*); of those only six were shot while trying to escape, and six committed suicide."

With Volk, Baier also knew of the need for guards at the Erzingen labor camp.

Baier's deputy signed many letters for Baier regarding the setting up of camps for prisoners engaged in forced labor. Baier states he did not hate the Jews and never inveighed against them, all of which may be true. Nonetheless, he was an important part of an organization which exploited, oppressed, tortured, robbed, and eventually exterminated the Jews.

On 24 January 1944, Dr. Horn wrote Pohl, making a report on the ghetto plants at Lodz. A copy of this report was sent to Baier. On 8 June 1944, Mumenthey wrote Baier recommending that a diamond cutting factory be established in the Bergen-Belsen concentration camp to be run by Jews, because the diamond industry of Amsterdam had come to a standstill as a result of the deportation and extermination of the Jewish workers there.

One document (*NO-3839, Pros. Ex. 594*) revealed that Baier

was called upon to obtain barracks at the Auschwitz concentration camp for the housing of suitable prisoners to be used by the Getwent, G.m.b.H. (Company for Technical and Economical Development, Ltd.).

It is not claimed by the prosecution that Baier, or for that matter, any of the defendants in this case, physically manhandled Jews, or other detainees of the Reich. But it is maintained with reason that the systematic persecution, impoverishment, confinement, and eventual slaying of these persecutees could not have been possible without the vast machinery of the SS, of which the WVHA was one of the most important parts.

The Tribunal finds that Baier, in his position as chief of staff W, took a consenting and active part in the exploitation of slave labor. In this he comes quite clearly within the purview of Control Council Law No. 10 defining war crimes and crimes against humanity.

The Tribunal finds Baier guilty under counts two and three of the indictment.

COUNT FOUR

The Tribunal also finds him guilty under count four.

LEO VOLK

Leo Volk joined the NSDAP on 1 May 1933, stating that this was required of him in order that he might finish his legal education. Further, that on orders of the Young Lawyers' Organization he was compelled to join the Allgemeine SS. In December 1939 he was requested by the SS Main Office Administration and Economy as an expert on legal affairs. According to his statement, he refused to leave his work as information specialist with the Professional Trade Society of German Cities and Communities, and was therefore drafted into the Waffen SS and detailed to legal work in the Main Office III A 4, of the Main Office Administration and Economy on 3 January 1940.

In the summer of 1941 he was assigned to legal work with the DWB which was part of staff W. Later he became the head of the legal department in staff W, and acquired, as time went on, the titles and functions of deputy chief of staff W, Prokurist for DWB, Referent or private secretary, and legal advisor to Pohl. For one month, in the absence of Hohberg, he acted as chief of staff W. Volk was undoubtedly a very busy man. There were so many facets to his unique position that at times he did not know himself in which capacity he was functioning.

Volk's attorney seeks to dim the luster of his client's versa-

tility and to cry down the importance of his work by stating that Volk merely prepared notarial documents, carried on law suits and generally gave legal advice. The evidence, however, overwhelms this modest appraisal of Volk's capacities. It has been demonstrated by the documents and by Volk's own testimony on the witness stand that he was a vital figure in Amtsgruppe W charged with the handling of vast SS enterprises employing unnumbered concentration camp inmates.

It has been argued in Volk's behalf that he cannot be convicted of war crimes or crimes against humanity because the prosecution has not established that he personally ever killed, maltreated, or robbed a concentration camp inmate. The prosecution never attempted to prove that Volk directly and physically abused a human being. It has been further argued that in order to convict Volk of any crime it must be shown that, if he knew of maltreatment of concentration camp inmates, he had to have the power to prevent the maltreatment in order to be convicted of crime. The law does not require that the proof go so far. It is enough if the accused took a *consenting part* in the commission of a crime against humanity to be convicted under Control Council Law No. 10. If Volk was part of an organization actively engaged in crimes against humanity, was aware of those crimes and yet voluntarily remained a part of that organization, lending his own professional efforts to the continuance and furtherance of those crimes, he is responsible under the law. But it is submitted that he was not aware of any crimes and it is this which the prosecution must establish before it can ask for a conviction.

Volk's contract with the DWB provided:

"It is Herr Volk's duty to manage the business transactions of the DWB with the care as befits a proper business man."

In a letter to Pohl as early as 1 September 1941, Volk displayed his grasp of the entire SS enterprise set-up by making recommendations for various changes in business managers and recommending himself as successor to Mummmenthey as manager of Cooperative Housing and Settlement Co., Ltd.

The DWB has been charged with exploiting concentration camp labor, but Volk argues that since the DWB was only a holding company, it could not use the services of physical labor. Academically this is correct, but the various subsidiary companies of DWB employed concentration camp labor on a vast scale and Volk could not avoid knowing this. On 13 July 1943, Gluecks, chief of department [Amtsgruppe] D, wrote Volk about the allocation of prisoners from the labor camp in Neurohlau for the "Bohemia" firm. Paragraph 2 of this letter reads:

"I too considered it advisable that all questions connected

with the allocation of prisoners should be settled by a concentration camp and at the beginning of June of this year, I, therefore, subordinated the detachment of female prisoners from Ravensbrueck to the official supervision of the concentration camp Flossenbuerg. 'Bohemia' is, therefore, being cared for, as desired, by Flossenbuerg only. The camp commanders, both camps, have been instructed accordingly and will receive a copy of this letter today."

On 28[18] February 1943, the defendant, Bobermin, W I [II] office chief and manager of the Golleschau Portland Cement Company, which used concentration camp labor from Auschwitz, designated Volk as Syndikus [in charge of legal matters] of this company. In January 1942 in Stutthof, Volk participated in a conference having to do with the conversion of the civilian internment camp at that place into a concentration camp. This camp was to house 25,000 inmates including prisoners of war. On 12 January 1942 Volk wrote a long memorandum on the Stutthof concentration camp project. In this memorandum he analyzes in detail the various phases involved in the concentration camp plan, dwelling at length on the lucrative brick works within the area. Volk's inspection of the site, his conferences on the subject, his reports and memorandum demonstrate convincingly his familiarity with concentration camp policy.

In February 1944, Volk accompanied Pohl to Lodz on the same kind of a mission which had engaged him at Stutthof. The fact that Himmler had, prior to Volk's visit to Lodz, ordered the transformation of the ghetto there into a concentration camp, and the later fact that the plan was abandoned does not take away from the charge of the prosecution that Volk was actually involved in concentration camp affairs; and the fact that Volk himself advised against taking over all the enterprises at Lodz adds to the logic of the prosecution's charge.

In July 1942 Volk attended a conference which had to do with the Hermann Goering Works at Linz. A memorandum on this subject points out that inmates of the Mauthausen concentration camp were to be used in erecting a factory which was to utilize the Clinker returns of the Linz foundry. The fact that a change in the plan dispensed with the use of prisoners here does not wipe out Volk's knowledge of how concentration camp inmates were being employed.

On 12 December 1944, Volk asked that 79 guards be sent to a labor camp at Erzingen. This certainly would establish that he was aware of the use of prison labor.

Volk denies all knowledge of the presence of prisoners of war in concentration camps. Yet on 10 March 1942, he countersigned

a letter from Kammler, chief of department [Amtsgruppe] C, WVHA, to the inspector of concentration camps, Gluecks, which contains this significant paragraph:

"In view of the increasing shortage of civilian workers the execution of the construction tasks devolving upon the SS Economic Administration Main Office in the third year of war, 1942, requires the employment of an increased number of prisoners, prisoners of war, and Jews."

On 1 July, 1943, Mummenthey wrote the commandant of the concentration camp at Flossenbuerg that he and Volk were coming to visit him and specifically asked him to make arrangements so that Volk could visit the camp. Volk later denied that he went into the camp but only saw it from a distance, but this does not eliminate Mummenthey's declaration of his (Volk's) interest.

Volk's counsel in his final plea argued that even if concentration camps were employed, this was no crime. He stated:

"It is therefore very doubtful whether the mere use of prisoners for unpaid work alone is sufficient to comply with the definition of the crime of enforcing so-called slave labor."

But, if forcibly depriving a man of his liberty, and then compelling him to work against his will without remuneration does not constitute slave labor, then the term has no meaning whatsoever.

Volk seeks to disassociate himself from complicity in the OSTI operation by stating that he was in Switzerland when OSTI was formed on 12 March 1943. However, he attended one of the first conferences on this project. He states that at this conference, which occurred 13 February 1943, its aims were not obvious and therefore he could not be charged with knowledge of its illegal objectives if any. But the memorandum on the subjects discussed at the conference lists as the first two items (1) the utilization of the Jewish manpower in the Government General; (2) the utilization of the Jewish movable property.

Since it was obvious that these two utilizations would be without compensation to the Jews involved, the criminal aspect of the operation must have been obvious at once. Volk, however, seeks to explain away his participation in this conference with the statement that he had been summoned to deal with any legal questions which might arise and did not know the subject of this discussion. It is rather difficult to accept that Pohl would ask Volk for a legal opinion without outlining to him the subject matter. Volk goes further and says that he never saw the questionnaire which was the basis for that discussion until the trial.

The evidence establishes that Volk was cognizant of the OSTI operations and the Action Reinhardt. On 31 August 1943, he

joined with Baier in requesting a loan of 2,500,000 RM to OSTI. On 26 June 1943, he approved a memorandum signed by Hohberg on the transferring of funds from the Reinhardt fund to the German industrial firms.

Volk's indefatigable and far-flung efforts in behalf of the SS enterprises exploiting concentration camp labor, his close collaboration with Pohl, his initiative and energies exerted for the W industries bring him inevitably within the purview of Control Council Law No. 10 defining war crimes and crimes against humanity.

The Tribunal finds Leo Volk guilty under counts two and three of the indictment.

COUNT FOUR

It is not clear, however, that Volk is guilty under count four. The fact that he had a written contract with DWB would indicate that his connection with the Waffen SS was not as binding as military service implies. The fact also that he did not give up his position with the Deutsche Gemeindetag (German Community Day) * when he was drafted into the Waffen SS also attacks the exclusive authority of the SS over his movements. He continued to draw a salary from the civilian firm until May 1941. Volk's connection with the Waffen SS is not sufficiently free of ambiguity to justify the conclusion that it has been established beyond such reasonable doubt as to bring him within the provisions of the IMT decision on this point. The Tribunal, therefore, finds him not guilty under count four.

KARL MUMMENTHEY

Karl Mummenthey joined the Allgemeine SS in 1934. In 1938 he became a legal assistant in the administrative office of the SS under Dr. Salpeter. In 1940, in order to avoid being drafted into the army he arranged with Salpeter to be taken into the Waffen SS and placed on detached service with the WVHA.

In his direction and management of the German Earth and Stone Works, known as DEST, none of the defendants was more directly associated with concentration camp inmate labor than Karl Mummenthey.

In January 1939, Mummenthey made an investigation of the company, and because of his recommendations, a separate legal department was set up under himself. In September 1939 he

* German municipal league established by law as central organization under the Reich Ministry of Interior for promotion of common problems of municipal administration.

became second business manager of DEST, and in September 1941, first business manager. When the Main Office Administration and Economy, and the Main Office Budget and Buildings amalgamated to form the WVHA, Mummmenthey became chief of office W I, and as such continued to control DEST.

DEST had brickworks and quarries at the Flossenbuerg, Mauthausen, Gross-Rosen, Natzweiler, Neuengamme, and Stutthof concentration camps. The ceramic works of Allach and Bohemia were also subordinated to office W I under Mummmenthey. The gravel works at Auschwitz and Treblinka, the granite quarry at Blizyn, the Clinker Works at Linz all formed part of the vast DEST establishments employing concentration camp labor. Mummmenthey testified that plants subordinated to office W I used a maximum of from 14,000 to 15,000 inmates at one time.

The DEST industries were strictly concentration camp enterprises. Each DEST plant had a works manager appointed by Pohl upon recommendation by Mummmenthey. These works managers made monthly reports to Mummmenthey's office. Mummmenthey frequently visited these plants and often called on the concentration camp commanders. Schwartz and Schondorff, in behalf of Mummmenthey, also made periodical inspections of the plants.

Mummmenthey's attorney in his final argument before the Tribunal said: "Without the connection with its Holding-Gesellschaft [Company] and Pohl's power of command, and without Mummmenthey's membership in the SS, the DEST and thereby Mummmenthey also, would hardly have to defend themselves before this forum." But it is precisely this which condemns Mummmenthey. It is like saying that were it not for a robbery or two, a robber would not be a robber. It was Pohl's command, and by his command the entire WVHA is involved, plus Mummmenthey's command as an SS officer, which made DEST what it was, an organization engaged in human slavery and human degradation.

The Tribunal must also renounce defense counsel's contention that Mummmenthey did not accept the responsibility of chief of office W I. All the evidence points to the contrary.

It has been Mummmenthey's plan to picture himself as a private business man in no way associated with the sternness and rigor of SS discipline, and entirely detached from concentration camp routine. The picture fails to convince. Mummmenthey was a definite integral and important figure in the whole concentration camp set-up, and, as an SS officer, wielded military power of command. If excesses occurred in the industries under his control he was in a position not only to know about them, but to do something. From time to time he attended meetings of the concentration camp commanders where all items pertaining to con-

centration camp routine such as labor assignment, rations, clothing, quarters, treatment of prisoners, punishment, etc., were discussed.

The evidence in this case reveals that there was perhaps no industry which permitted such constant maltreatment of prisoners as the DEST enterprises.

Prosecution witness Engler, testifying to conditions in the DEST plants at the Sachsenhausen-Oranienburg concentration camp, declared that the inmates worked 12 hours a day; that the food was insufficient, the clothing inadequate, and beatings constant; and that because of the heavy work and inadequate food there was an average of from 800 to 900 deaths per month. As a result of a report made by Engler on deplorable conditions at the camp hospital he was sentenced to a punitive company, 6½ days a week. In one month's time 19 out of 65 men in this company died. Engler stated that the average life duration of a punitive company worker was four weeks.

Mummenthey could not help knowing about concentration camp labor in the DEST enterprises. In Sachsenhausen-Oranienburg the inmate workers daily passed by the very building in which Mummenthey had his office. Their poor physical condition was obvious.

The prosecution witness, Kruse, a German citizen, testifying to conditions at the Neuengamme concentration camp, declared that the monthly death rate in that camp was from 8,000 to 12,000. During the construction period of the Clinker Works of DEST, the death rate went up to about 20,000.

Mummenthey called in his behalf the witness Helmut Bickel, a German citizen who served from 1939 to 1940 in the Clinker Works at Sachsenhausen, and from 1940 to 1945 in the Neuengamme Works of DEST. No witness gave a more harrowing account of concentration camp conditions than did Bickel, this defense witness. He testified that the food was not adequate for the work required of the inmates. "Proof of that is the extremely large number of inmates who died directly or indirectly of starvation." He further stated that reports were submitted by the works managers to Mummenthey's office every month and that these reports showed indirectly the intolerable conditions under which the inmates worked and lived. Mummenthey could not have failed to know the plight of the inmate workers.

Bickel described Mummenthey as a, "white crow," but it is obvious that he used this characterization because Mummenthey had done him a favor of some proportions. If Bickel is to be believed at all, it cannot be accepted that Mummenthey, amid all these excesses, atrocities and maltreatment, could remain so

white a crow. It is not an unusual phenomenon in life to find an isolated good deed emerging from an evil man. Because of convenience, caprice, or even a sudden ephemeral gleam of benevolence forcing its way through a calloused heart, even a murderer can help a child to safety. A grim humor can cause a slayer to save his intended victim. But whatever the cause which motivated Mummenthey's benevolence to Bickel, the kind deed is not enough to obliterate his indifference to the wholesale suffering of which he could not but be aware, and to alleviate which, in spite of his protestations, he did little or nothing.

Mummenthey is not an aggressively vicious man. He is too lacking in imagination to conjure up the planning of murder and equivalent enormities. His criminality lies in culpable indifference to humanity, the sacredness of which demands respect in all parts of the world.

Mummenthey attempted to evade responsibility by first stating that there were no atrocities and no inhuman treatment of concentration camp inmates; secondly, that if they did occur, they were caused by concentration camp guards over whom he had no control, and further that the treatment of inmates was subject to the supervision of the Messerschmitt and Junkers firms and other employers of inmates. But on cross-examination he admitted that he personally dealt with labor allocation. In fact his monthly report on W I for May, 1942 referred to the shortage of 1,500 inmates in the Gusen quarry, but declared that "this calamity" would be overcome when a new shipment of inmates arrived from Auschwitz the following month.

Mummenthey has argued that DEST had nothing to do with food, clothing and billeting for the workers, and that it was impossible for him to know whether or not the inmates ate well since only the midday meal was consumed in the plants. Still he has testified that he was certain the inmates were sufficiently nourished because his plant managers so informed him. He even stated that through the ruse of misleading statements he was able to supplement the fare of the workers with extra rations. This, in spite of his assertion that so far as he was concerned the workers were well fed.

Mummenthey's defense is almost naive. He stated that he did not know whether the inmates received any monetary compensation for their work. He went so far as to say that he tried to find out but never got a "satisfactory" answer. With the right spirit he could have found the answer in every document that he examined, and in the face of every concentration camp prisoner. Mummenthey's assumed or criminal naivete went to the extreme of asserting that inmates were covered by accident insurance.

We can imagine the tragicomic scene of a Polish Jew, half beaten to death by a concentration camp guard, applying to the concentration camp administration for workmen's compensation for the injuries inflicted upon him by the very organization from which he claimed compensation.

Mummenthey even professes an ignorance as to the hours of work required of concentration camp inmates. Aside from the inherent improbability of such a statement the record shows that Mummenthey received a copy of Pohl's order that inmates must work at least 11 hours a day and a half day on Sunday in case of emergency. In his own letter to Baier on 2 May 1944, he revealed his knowledge of the 11 hour rule and said: "I have directed Blizyn to increase the production of the undertaking by making all efforts, and to be particularly anxious that the best use be made of the Polish prisoners."

Mummenthey conceded that he visited the DEST gravel works at Auschwitz in 1940, 1941 and 1943, and at Treblinka in the spring of 1943. Whether he knew of the Jewish extermination program at Auschwitz is not demonstrated by concrete proof, but it is difficult to assume that with his position and opportunity for gaining information he could go to Auschwitz and not learn of what was transpiring in the gas chambers and crematoria.

Mummenthey had to know of OSTI and its nefarious program. The final audit of OSTI was prepared by one Fischer who said in his statement of the audit: "I received through SS Obersturmbannfuehrer Mummenthey the order to audit the Ostindustrie."

Mummenthey also professed ignorance about the Action Reinhardt. Yet the Allach Ceramic Works under Mummenthey received a loan of over 500,000 marks in May 1943 from the Reinhardt fund through the DWB.

Mummenthey could see nothing illegal or improper in the whole concentration camp set-up. He even went so far as to say that at the time he could see nothing illegal or improper in all of Hitler's doings and in all of the Gestapo doings.

Mummenthey's assertions that he did not know what was happening in the labor camps and enterprises under his jurisdiction does not exonerate him. It was his duty to know.

In his defense Mummenthey takes two entirely contradictory positions. One, that the concentration camp inmates were well fed, clothed, and housed, and decently treated; and the other that he was constantly engaged in conflict with the concentration camp commanders to improve their lot. The absurdity of the contradiction is obvious, but it goes further than is apparent because the camp commanders were themselves plant directors of DEST, and therefore subordinated to WVHA.

In reaching the above findings the Tribunal disregarded entirely the testimony of the witness Krysiak.

The Tribunal finds Mummmenthey guilty under counts two and three of the indictment.

COUNT FOUR

Because of his undisputed membership in the SS, with all the concomitant features outlined in the opinion of the IMT, the Tribunal also finds Mummmenthey guilty under count four.

HANS BOBERMIN

Hans Bobermin joined the NSDAP in May 1933 and the General SS in the latter part of that year. In January 1940 he was "called" to the Waffen SS and placed in charge of the Main Department III A 4, in the Main Office Budget and Buildings. His rank at that time was SS Hauptsturmfuehrer. Bobermin, in addition to the duties of his office, served as deputy to Dr. Salpeter, chief of division III A. From 1 October 1940 the Main Department III A 4 was separated from office III A, and in the autumn of 1941 Bobermin's office was designated Amt W 2. In March 1942, when the WVHA came into existence, Bobermin's office became known as W II.

Bobermin's first and main task in the Waffen SS was to take over, control, and operate some 400 brick works in Poland, confiscated by the Reich with the overrunning, defeat, and conquest of Poland. It was the contention of the defendant that since these properties were located in that territory allotted to Germany in the treaty signed between Germany and Russia, no illegality was involved in the confiscation, at least so far as he was concerned. If this had been out and out conquest by Germany of *all* properties, regardless of private ownership, it would still be clear that Bobermin would not be free of guilt. But here an attempt was made to distinguish between owners. Racial Germans were exempt from the seizure, whereas Poles and Jews lost their property absolutely. They lost it not because they had committed any crime or had received any compensation for it, but simply because they were Jews and Poles.

In a letter drafted for Pohl's signature, Bobermin states on 3 July 1941, the following:

"As a result of the confiscation order of the Main Trusteeship Office East, dated 29 November 1939, 313 brickworks with an estimated annual output of *600 million bricks* were seized at the beginning of 1940. As a result of the property disputes between the communities and the Main Trusteeship Office East,

the community-owned brickworks were released from this seizure, but leased to the administration of the General Trustee to ensure an experienced management and a quick development. *Out of these originally seized brickworks, four were returned to their owners, who had meanwhile been recognized as racial Germans.* Finally, some brickworks were handed over to the Reich Works Hermann Goering after negotiations, as these brick works are in close operation—and economical connection with the mines secured by the Hermann Goering Works. Four works were given to German repatriates, who could prove to have owned and run brickworks before their resettlement.”

Because Bobermin spent most of his time during the war out of Berlin, it may not be assumed that in some way he was disassociated from the WVHA. Many documents were introduced in evidence to demonstrate the close tie-up between him and Pohl. On 28 June 1941, Pohl appointed him as business manager of Ostdeutsche Baustoffwerke G.m.b.H. On 2 September 1941, Pohl appointed Bobermin as his deputy to inspect the former Russian territories for plants producing building material and for places in which new factories might be built. On 15 August 1941, Bobermin, quite proud of his work in reactivating the factory at Krubin, invited Pohl to attend the opening ceremonies which Bobermin described as a “celebration.”

Most of the confiscated factories were taken from Jews who either had to flee Poland or were taken into custody and sent to concentration camps or extermination centers. Bobermin denied all knowledge of this wholesale persecution. His witness, Winkler, who was chief of the Main Trustee Department East, stated that he did not know until late 1944 that many of the Jews whose property he was administering had been killed by the SS and other German forces in the East. Even if we accept this statement at its face value, the fact remains that he did learn of the criminality of this entire confiscation program, and yet remained in the office engaged in the very criminal venture. Could Bobermin have known less?

The massacre of the Jews in Poland was certainly not a secret. The International Military Tribunal found that, “the murder and ill-treatment of civilian populations reached its height in the treatment of the citizens of the Soviet Union and Poland”, and that one-third of the population of Poland was killed off in the course of the occupation. How much Bobermin knew of these killings is not evident, although it clashes with human observation that he could have lived in Posen [Poznan] in the very heart of the territory where these excesses occurred, without having some awareness of what was taking place. Bobermin explains

the phenomenon of the disappearance of the Jews with the observation that it was his impression that they had "fled", but did not know the reason for their flight. He did know, however, that the enterprises under his management would never be returned to their original owners. In the letter already referred to he stated that these properties would be given only to—

"Those who are considered worthy by the Reich Commissioner for Strengthening the German race in the East," and, "those who deserve preferential treatment for service at the front in this or the World War [I]; original members of the Nazi movement; those who have done useful work in the reconstruction of the East."

It is not clear from the evidence that concentration camp labor generally was used in operating the confiscated brickworks. The labor was allocated to the plants by the labor office which office also deported Poles to the Reich. These workers fell within the Reich classification of "free workers." That is to say, they came under Sauckel's jurisdiction as Plenipotentiary for Labor, and the International Military Tribunal has already passed upon the freedom exercised by the average foreign laborer employed by the Reich under Sauckel.

However, it is not disputed that Bobermin used concentration camp labor in his plant at Golleschau. As chairman of the Golleschau Cement Company and as chief of Amt W II, WVHA, within whose office the Golleschau plant fell, Bobermin's authority in the company could not be questioned. Golleschau was located about 70 kilometers from Auschwitz and it was from this notorious concentration camp that the Golleschau workers were drawn. Those who were unable to perform the work to which they were assigned in Golleschau were sent back to Auschwitz to whatever fate might await them. Bobermin attempts to deny responsibility for the employment of concentration camp inmates at Golleschau by stating that the proposal for this employment was made by Pohl. But Pohl was commander in chief of all WVHA activities. To here, expect exoneration from the charge of criminality on the basis of Pohl's superior command is to demand a certificate of innocence because of Himmler's orders or even Hitler's. Where outright criminality is involved, superior orders are in themselves no excuse, although they may be argued in mitigation of punishment.

In the operation of his many enterprises Bobermin found it necessary to borrow money which came from the funds released through the Action Reinhardt. He, however, claims that he was ignorant at that time of the meaning of the Reinhardt operation. Much of the loot, which finally became the Reinhardt fund, was

collected in the very area in which Bobermin's plants were operating. In view of his use of inmates from Auschwitz in the Gollschau plant, his high position in the SS, his close association with Pohl, his presence in Poznan when Himmler delivered his famous speech (although Bobermin denies having heard it), it is incredible that he would not know at the time the meaning of the Action Reinhardt.

In April 1944, Bobermin was transferred to Hungary as SS Wirtschaftfer, or economic administrator, bound to Pohl. In this capacity he supplied the SS and Police units with money, clothes, and incidentals. Here he learned of the transportation of Jews out of Hungary, but he states that he did not know they were being consigned to concentration camps or extermination centers. In any event, he affirms that he had no power to prevent the forced movement, even had he been aware of the destination of the Jews. The Tribunal accepts this explanation in the absence of any proof in the record to the contrary.

The Tribunal finds Bobermin guilty under counts two and three of the indictment.

COUNT FOUR

The Tribunal also finds Bobermin guilty under count four.

HORST KLEIN

Horst Klein studied law at the University of Lausanne, Freiburg, and Bonn, and in February 1933 finished his studies and passed his final examination as probationer. He worked in various courts looking toward a judicial career, but abandoned this intention when, as he stated, he observed that under Nazi rule the judges were denied complete independence of judgment and decision. In 1937 he became an assessor and then obtained employment in the bookkeeping branch of the Duerkopp-Werke. In February 1938 he took up employment with the "Society Sponsoring and Maintaining German Cultural Monuments, Registered Corporation."

He joined the NSDAP in May 1933 but held no honorary or functional office therein. In the same year he joined the Allgemeine SS. He never became a member of the Waffen SS. In February 1945 he was about to be inducted into this organization but the induction never materialized.

In 1939, the Society Sponsoring and Maintaining German Cultural Monuments was incorporated into the administration of the SS under the name of HS-1 (Main Department for Special Tasks). In 1940 Klein became chief of this department. In 1942

when the WVHA came into being, Main Department HS-1 was designated Amt W VIII with Klein as its chief.

Although Amt W VIII was definitely an integral part of the WVHA and answerable to Pohl, it is not apparent that it was active in any aggressive way or that it forms part of the pattern of concentration camp inmate exploitation. This office had no connection with SS industries. Its work fell rather into the category of cultural and social welfare. In addition to directing the affairs of the society above-mentioned, Klein also managed the Society of Convalescent Homes for Natural Recovery and Standard of Life which operated convalescent homes for women and children and administered SS hospitals. Then there were two other organizations under his charge, the Externsteins and the King Henry establishment, the former devoted to the preservation of an old Germanic early Christian relic and the latter to the maintenance of the Cathedral at Quedlinburg. All these activities could have been effectively pursued outside the WVHA, and they were not an indispensable part of the machinery of the WVHA. These organizations brought no monetary returns to the coffers of the Reich. The direct opposite is true, since they were subsidized by the State.

It has been charged by the prosecution that Klein was responsible for excesses in the labor camp at Wewelsburg, but the proof before the Tribunal exonerates Klein from responsibility in that connection. He never managed or directed this camp. Several former inmates of Wewelsburg testified in Court that they not only never saw Klein in the camp, but never heard his name mentioned. The evidence would further establish that the Wewelsburg camp was not controlled by Klein, but by SS Obergruppenfuehrer Taubert. Further, that in the construction job itself which was being done at Wewelsburg, the man in charge was the architect SS Standartenfuehrer Bartels. Bartels had immediate control over the 500 men employed here and Klein had no authority whatsoever over them. In addition, Bartels had a rank superior to Klein's.

The construction work at Wewelsburg, which had to do with the restoration of a castle, was ordered by Himmler and the chain of command from Himmler to Bartels did not even go through Pohl, chief of the WVHA. The only objective part played by Klein in this entire project was the acquisition of the site, but there was nothing in the plan of taking over the real estate which indicated to Klein that a forced labor camp would go into operation here. On the contrary, his only information was that the land was to be used for enlargement of the castle area and future SS settlements.

The prosecution has charged Klein with obtaining credit on

the Dresdner Bank for the financing of the Wewelsburg construction work. But when Klein entered this financial deal, the credit had already been obtained at the bank, the initiative having been taken in this respect by General Wolff on Himmler's orders. The sums which were then made available by Klein were used by Bartels who, on orders from Pohl, was not required to make any accounting for them to Klein.

The Tribunal also finds that Klein's participation in the matter of the acquisition of the Lakowicz property did not involve the commission of a war crime or crime against humanity. The little part which Klein had to do with this acquisition followed in point of time its confiscation by another Reich agency with which Klein was in no way connected.

Nor is there any connection between Klein and the pamphlet "The Subhuman," placed in evidence by the prosecution. Although this unsavory document was published by the Nordland Publishing Company, of which Klein had at one time been legal advisor and Prokurist, his connection with this organization had been severed a year or two prior to the appearance of the pamphlet.

Although Klein was a member of the SS, his conduct and attitude as it has come to us through the evidence did not reveal any fanatic adherence to the Nazi ideology. In point of fact, he got into personal difficulties himself because of his failure to cooperate whole heartedly with the Nazi program. On 1 October 1944 he was arrested because of a statement he had made criticizing certain practices of the Third Reich and the SS. An immediately ensuing illness which kept him confined to his home under guard and under observation saved him from trial and a possible severe penalty. His own sister, Frau Helga von Rouppert, was also arrested, denounced by the Gestapo, and committed to the concentration camp at Ravensbrueck. Her crime also consisted of derogatory remarks against the Reich. One specific statement had to do with her criticism of the German generals for not having deposed Hitler as the Italians had ousted Mussolini. Frau von Rouppert testified in Court and stated that her husband was also persecuted by the Gestapo, and, in order to avoid arrest, with attendant torture and degradation, committed suicide. Klein states that his own father died as the result "of all this excitement."

From all the evidence in the case the Tribunal concludes that Klein is not guilty under counts two and three of the indictment.

COUNT FOUR

Under the interpretation of the IMT decision, pointing out the factors required to convict an SS member of criminality, the

Tribunal concludes that Klein does not fall within the category specified and therefore finds him not guilty under count four.

[Signed] ROBERT M. TOMS
Presiding Judge

[Signed] FITZROY D. PHILLIPS
Judge

[Signed] MICHAEL A. MUSMANNO
Judge

SENTENCES

OSWALD POHL, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to death by hanging.

AUGUST FRANK, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have thus been convicted, this Tribunal sentences you to imprisonment for the remainder of your natural life, at such place of confinement as shall be determined by competent authority.

HEINZ KARL FANSLAU, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to imprisonment from this date for a period of 25 years, at such place of confinement as shall be determined by competent authority.

HANS LOERNER, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been thus convicted, the Tribunal sentences you to imprisonment from this date for a period of ten years, at such place of confinement as shall be determined by competent authority.

GEORG LOERNER, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been convicted, the Tribunal sentences you to death by hanging.

ERWIN TSCHENTSCHER, the Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have thus been convicted, this Tribunal sentences you to imprisonment from this date for a period of ten years at such place of confinement as shall be determined by competent authority.

MAX KIEFER, the Tribunal has adjudged you guilty under counts

two, three, and four of the indictment filed in this case. For the crimes of which you have thus been convicted, this Tribunal sentences you to imprisonment for the remainder of your natural life, at such place of confinement as shall be determined by competent authority.

FRANZ EIRENSCHMALZ, the Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to death by hanging.

KARL SOMMER, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to death by hanging.

HERMANN POOK, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to imprisonment from this date for a period of ten years at such place of confinement as shall be determined by competent authority.

HANS HOHBERG, this Tribunal has adjudged you guilty under counts two and three of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to imprisonment for a period of ten years at such place of confinement as shall be determined by competent authority.

In view of the fact that you were not a member of the SS, or of the National Socialist Party, the Tribunal orders that your sentence begins as of 22 October 1945, the date of your first detention as a prisoner.

HANS BAIER, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to imprisonment from this date for a period of ten years at such place of confinement as shall be determined by competent authority.

LEO VOLK, this Tribunal has adjudged you guilty under counts two and three of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to imprisonment from this date for a period of ten years at such place of confinement as shall be determined by competent authority.

KARL MUMMENTHEY, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have been thus convicted, this Tribunal sentences you to imprisonment for the remainder of

your natural life at such place of confinement as shall be determined by competent authority.

HANS BOBERMIN, this Tribunal has adjudged you guilty under counts two, three, and four of the indictment filed in this case. For the crimes of which you have thus been convicted, this Tribunal sentences you to imprisonment from this date for a period of twenty years at such place of confinement as shall be determined by competent authority.

B. Concurring Opinion by Judge Michael A. Musmanno

Oswald Pohl and his seventeen codefendants above enumerated have been indicted under Control Council Law No. 10, enacted by the Allied Control Council on 20 December 1945.

At varying times between January 1933 and April 1945, the defendants were administrators of the concentration camps of Germany and German occupied territory, and in the execution of these duties were, with the exception of Hohberg, all members of the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei, commonly known as the SS, which in itself was adjudicated by the International Military Tribunal to be a criminal organization, and also declared to be such by Article II of Control Council Law No. 10.

The indictment, filed in Nuernberg 13 January 1947 by Brigadier General Telford Taylor, Chief of Counsel for War Crimes, acting on behalf of the United States of America, charges the defendants with maintaining and administering concentration camps in such a manner as to visit injury, disease, starvation, torture, and death on thousands and millions of inmates. The indictment also charges the defendants with participation in a program of mass murders, spoliation, and expropriation on millions of Jews, Slavs, Poles, and other peoples, both in and out of the conquered countries. The indictment is laid in four counts, which because of its length will not be quoted in full. In condensed form it provides:

COUNT ONE—THE COMMON DESIGN

The defendants, acting in concert with each other and with others, unlawfully, wilfully, and knowingly were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of war crimes and crimes against humanity.

It was a part of these plans and enterprises—

1. To formulate and carry out ways and means for financing the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiter-

partei (commonly known as the "SS") and each of its various purposes, functions, activities, and enterprises.

2. To establish and maintain throughout Germany and other countries concentration and labor camps in which thousands of persons, including prisoners of war, German civilians, and nationals of other countries, were unlawfully imprisoned, enslaved, tortured, and murdered.

3. To supply the labor and services of the inmates of concentration camps to various industries and undertakings.

4. To furnish human subjects for criminal medical experimentation and to assist in carrying out the plans for such unlawful experiments.

5. To carry out the policy of the German Reich, to exterminate the Jewish race, to sterilize and castrate certain groups of peoples.

6. To carry out the so-called "euthanasia" program; and

7. To deport citizens of countries occupied by the armed forces of the German Reich, plundering their property, and impressing their services and labor for the German Reich.

Throughout the period covered by this indictment all of the defendants herein were associated with the Economic and Administrative Main Office (Wirtschafts- und Verwaltungshauptamt, commonly known as the "WVHA"), which was one of the twelve main departments of the SS.

The defendants participated as leaders, organizers, instigators, and accomplices in the formulation and execution of the said plans and enterprises, and accordingly are individually responsible for their own acts and for all acts performed by any person or persons in execution of the said plans and enterprises.

COUNT TWO—WAR CRIMES

Between September 1939 and April 1945 all of the defendants herein unlawfully, wilfully, and knowingly committed war crimes, as defined by Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of atrocities and offenses against persons and property, including, but not limited to, plunder of public and private property, murder, torture, illegal imprisonment, and enslavement and deportation to slave labor of, and brutalities, atrocities, and other inhumane and criminal acts against thousands of persons.

The WVHA took over jurisdiction of the concentration camps in Germany and the occupied countries and territories in the spring of 1942, and was charged also with the establishment and operation of new concentration camps.

In Poland, Russia, and other countries the defendants assisted in planning and carrying out the plunder, spoliation, and confiscation of real and personal property of Jewish, Russian, Polish, and other private owners; of churches, communities, towns, cities, and states; the deportation to slave labor and other purposes of civilians there resident, and the resettlement of such regions by peoples asserted by the Nazis to be Aryans. The defendants systematically confiscated the personal property of living and deceased inmates of concentration camps.

Civilians and prisoners of war from all the countries of Europe were deported from their homelands and herded into the concentration camps, some of which were fitted with special installations, such as gas chambers and sealed buses, where they were exterminated.

Experiments were carried out to determine how most efficiently to use the labor and services of the living members of undesired "races" and nationalities, and to insure that such persons would be unable to propagate their kind. Countless persons, including nationals of occupied territories, were murdered in the so-called "euthanasia" program of the German Reich.

The defendants assisted in planning and carrying out medical, surgical, and biological experiments upon hundreds of involuntary human subjects, without regard to the lives of such subjects, resulting in the murder, torture, and ill-treatment of hundreds of persons.

COUNT THREE—CRIMES AGAINST HUMANITY

Between September 1939 and April 1945 all of the defendants herein unlawfully, wilfully, and knowingly committed crimes against humanity as defined by Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, illegal imprisonment, torture, persecution on political, racial, and religious grounds, and ill-treatment of, and other inhumane and criminal acts against German civilians and nationals of other countries.

COUNT FOUR—MEMBERSHIP IN CRIMINAL ORGANIZATION

All of the defendants herein, except defendant Hohberg, are charged with membership, subsequent to 1 September 1939, in the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiter-

partei (commonly known as the "SS"), declared to be criminal by the International Military Tribunal and paragraph 1 (*d*), Article II of Control Council Law No. 10.

GENERAL DISCUSSION

In the general lurid picture of World War II, with its wrecked cities, uprooted farmland, demolished transportation facilities, and public utilities, starvation, disease, ashes, death, rubble, and dust, one item of horror seems to stand out with particularly dramatic and tragic intensity—the concentration camp. It can be seriously doubted in the world of today, even among the most meagerly informed peoples that there exists a man or woman who in some manner or other has not heard of and recoiled at the mention of the phrase concentration camp.

Newspapers, magazines, books, lectures, and motion pictures have told the story in every country, in every city, village, hamlet, and town of organized society. Now it has been unfolded in a courtroom with all the safeguards for truth which judicial procedure affords. Prosecution and defense has each told its side, here every witness was subject to examination, cross-examination, recross-examination and then examination by the Court itself. At the bar of justice, documents could be and were scrutinized for authenticity, and the oath of truthfulness with the penalty of contempt ever ready for its violation, was imposed on every witness and defendant.

The trial lasted 101 days. The stenographic record of the testimony runs to 8,048 pages. The prosecution introduced 742 documents, and the defense 615 documents, totalling in all, several thousand pages. Prosecution and defense counsel (19 lawyers in all, in addition to the various assistants) made both opening statements and closing arguments, and the defendants themselves were allowed, in addition to the fullest rights of a witness, an opportunity to make a final declaration to the Court. From all this emerged a judicial pronouncement on concentration camps.

Although the majority of the Tribunal has filed an opinion on the guilt or innocence of each defendant, with which I, of course, concur, it does not, for reasons later noted, devote considerable space to the *corpus delicti* itself. There should be one document sufficiently comprehensive to which the legal profession and the lay public, now and in the future, can turn for an authoritative account on concentration camps. They should not be required to read through thousands of pages of transcript and scan tons of documents to obtain an adequate picture of this supreme crime against humanity through the ages. The writing, in the majority

opinion, of a separate treatment on each of the 18 defendants already made for a rather long document, so that a complete coverage of the various features of the case with quotations and citations would produce a greater number of pages than might be met in the definite judgment. Thus, this concurring opinion is being filed so that there will be readily available a longer discussion for those desiring a more detailed account of the facts which brought about the judgment.

THE SS

The Economic Administration Main Office, commonly known as the WVHA, which maintained, administered, and operated the concentration camps of Germany and occupied territories was one of the Main Offices of the SS. This latter organization came into being in 1925 as an "elite section of the SA" for the ostensible purpose of protecting Nazi speakers at public meetings but with the avowed object of clearing away all obstacles in the political path to power of Hitler and his aggressive cohorts. In 1933 when the seizure of the government had been effectuated, the SS numbered 52,000 men. With each further increase of Nazi power the SS augmented in size and importance. By 1939 its ranks totaled 240,000 men and it was known as the Allgemeine SS. The SS originally contained two other formations, the Special Service [Purpose] Troops and the Death Head formations. The latter became guards for the concentration camps.

In 1939, units from the Special Service [Purpose] Troops and the Death Head formations fought in the Polish campaign under the designation of Waffen SS. By 1940 the Waffen SS numbered 100,000 and by the end of the war it could boast 40 divisions of 580,000 men. Defendant Tschentscher testified that the total strength of the Waffen SS numbered 1,000,000.

The SS Central Organization had 12 main offices, the two most important of which were the Reich Security Main Office (RSHA) and the WVHA. The latter, in addition to its concentration camp duties, administered and financed the various SS outfits; and [the SS also] operated a race and settlement office together with auxiliary offices for repatriation of racial Germans (Volksdeutsche Mittelstelle).

Heinrich Himmler, as the supreme police officer of the German Reich and Reichsfuehrer SS, constituted in himself the law for all branches of the SS, and a *fortiori* for the concentration camps, their administrators, guards, and inmates. As chief of the WVHA, Oswald Pohl, number 1 defendant in this case, represented Himmler and spoke in his name. In order to understand the

controlling and guiding spirit of concentration camp administration it is necessary to speak of Heinrich Himmler.

Much that happened in concentration camps is simply incomprehensible, unless one comprehends Heinrich Himmler. The aims, purposes, and objectives of this incredible person must be blue-printed, before the happenings within the barbed wire enclosures of Germany make any sense at all. Without knowing Heinrich Himmler, life and death in concentration camps is simply a chaotic jumble of brutal primeval forces. With Heinrich Himmler the lurid farrago acquires order, system, direction, and goal.

Nowhere did Himmler more articulately reveal himself than in the speech to his SS generals at Poznan, Poland, in October 1943. The basic principle for the SS man, Himmler said, was that the SS man must be honest, decent, loyal, and comradely to members of his own blood and to nobody else.

“What happens to a Russian, to a Czech does not interest me in the slightest. What the nations can offer in the way of good blood of our type, we will take, if necessary by kidnapping their children and raising them here with us. Whether nations live in prosperity or starve to death interest me only in so far as we need them as slaves for our Kultur [culture]; otherwise, it is of no interest to me. * * * Our concern, our duty is our people and our blood. It is for them that we must provide and plan, work and fight, nothing else. We can be indifferent to everything else.” (* III/12, Doc. 1919-PS.)

Absolutely slavish loyalty to Hitler was of course demanded of every SS man:

“If within the sphere of your knowledge there is ever anyone who is disloyal to the Fuehrer, or to the Reich, even if it is only in thought, you must see to it that this man is thrown out of the organization, and we will see to it that he departs this life.” (* III/17, Doc. 1919-PS.)

This chaining of even one's thoughts to Hitler will help to clarify much of what is otherwise inexplicable in the unfoldment of SS excesses which often go beyond the realm of normal mental assimilation.

This explains how supposedly educated men can attend unflinchingly and even approvingly upon a man who speaks casually of out-and-out murder—“It is a mere nothing to shoot 10 Poles.”

These SS men listened without resentment to Himmler reproaching those who engaged in all “the silly talk about humanity.”

This man who refers to talk about humanity as silly, is the

* Designations represent document book number and page.

man whose word was law in the concentration camps; the man who with a stroke of the pen could wipe out thousands of human lives. (VIII/54, Doc. NO-2465.)

Extolling the mass murder of Jews, Himmler said: "This is a page of glory in our history."

Discoursing on the law of selection, Himmler portrayed for his hearers at Poznan the evaluation of the German character held together through the centuries by Nordic-Phalician-German blood. This new Nordi-Germanic person contains in himself the "creative, heroic, and life-preserving quality of the German people", and it devolves upon this Nordi-Germanic blood not only to win the war against the "subhuman" but to prepare for the after-war period, "then this organization will march forward into the future young and strong, revolutionary and efficient, to fulfil the task of giving the German people, the Germanic people, the superstratum of society which will combine and hold together this Germanic people and this Europe; and from which the brains which the people need for industry, farming, politics, and as soldiers, statesmen and technicians, will emerge." (III/16, 17, Doc. 1919-PS.)

And the superstratum must be so strong and vital that every generation can unreservedly sacrifice two or three sons from every family on the battlefield and that, "nevertheless, the continued flowing of the bloodstream is assured." (III/16, Doc. 1919-PS.)

It would appear from this that the ending of World War II was to be but the beginning of another war and still further wars—and this is exactly what Himmler envisaged. "Germany will impose her laws on the East and push forward little by little to the Urals. This generation must successfully bring it about that every SS division must spend a winter in the East every second and third year. Then we shall never grow soft."

And then he visualizes the great battle of Germany with its 250 to 300 millions (!) and other European peoples making a force of 600 to 700 millions battling one and a half million Asiatics.

The prosecution introduced during the trial an SS publication entitled, "The Subhuman." In magazine form, it consisted of scores of photographs comparing the vile Jews, Poles, and Russians against the cultured, civilized, Nordic Germans. The pictures on the left pages revealed unshaven, unkempt, ragged, emaciated, sickly humans; the pictures on the right portrayed well fed, cleanly dressed, washed, and shaven Germans. This descent into artificial and dishonest contrast reached its nadir of unfairness when it reproduced on one left hand page a picture

of piteous, starving, diseased Jewish-Russian children, and on the other side fat, beribboned, laughing German boys and girls. The text accompanying the pictures was even more revolting than the pictorial comparison of poor unfortunate humanity with better favored creatures of the human race.

Even Roosevelt, Stalin, Churchill, and LaGuardia were pictured with these inscriptions:

“Subhuman will remain subhuman, and Jew will remain Jew, whether they are called Churchill, Roosevelt, or LaGuardia. For us they are the scum of the earth. They back Stalin, the subhuman No. 1. They are his confederates and comrades.”

Some of the other inscriptions are quoted here, their application to the pictures being apparent:

“The subhuman, this apparently fully equal creation of nature, when seen from a biological viewpoint, with hands, feet, and a sort of brain; with eyes and a mouth, nevertheless is quite a different, a dreadful creature, is only an imitation of man with man-resembling features, but inferior to any animal as regards intellect and soul. In its interior, this being is a cruel chaos of wild, unrestricted passions, with a nameless will to destruction, with a most primitive lust, and of unmasked depravity.

“Subhuman—and nothing else.

“For not everything is alike that has a human face.

“Beast called beast.

“And this underworld of subhumans found its leader: the eternal Jew.”

Although several of the defendants denied at the trial knowing anything about this SS publication, a letter introduced in evidence revealed that it was Himmler's intention this propaganda sheet should reach every German home. (*Tr. p. 7158.*)

That Himmler was a psychopathic degenerate must now be obvious to all the German people. But the enigma is that his intelligent contemporaries could listen without becoming ill to his imbecilities about the master race, Nordic supremacy, beauty, and culture.

When he spoke of “good blood,” did not his hearers see that his face contained about as much blood as an angleworm, and when he expatiated on physical beauty, was it not obvious that he was as beautiful as an anteater, and when he ranted on culture, did no one recall that he had the manners of a Patagonian goat?

In April 1943, at Kharkov, he boasted that in each invaded country he set up an SS organization.

“From the beginning, I have said to them, ‘You can do what

you like and leave what you like.' I leave everything entirely to you, but you may be sure, that an SS will be set up in your country, and there is but one SS in Europe, and that is the Germanic SS, led by the Reichsfuehrer SS. You can resist, or you can offer no resistance, it's all the same to me. We shall do it in any case." (III/23, Doc. 1919-PS.)

He promised further, that not only would the Germans in the Balkans be restored to the Fatherland, but also those in America.

"I beg you, rather (and here too I am stating a very sober opinion), to think in this case of these Germans in the whole of the Balkans, still more of these overseas, in America, when one day we must fetch over here in millions—and we shall succeed in doing so—who have held out for centuries." (III/24, Doc. 1919-PS.)

And then, nothing undaunted, Himmler is to grow new blood, good Germanic blood:

"They are the necessary conditions, for our race, and our blood to create for itself and put under cultivation, in the years of peace, (during which we must live and work austere, frugally and like Spartans), that settlement area in which new blood can breed, as in a botanical garden so to speak. (sic.) Only by this means can the continent become a Germanic continent, capable of daring to embark, in one, or two, or three, or five, or ten generations, on the conflict with this continent of Asia which spews hordes of humanity." (III/25, Doc. 1919-PS.)

This brain staggering speech does not omit, of course, the prediction of a Germanic world empire.

"The result—and I am convinced of this, I believe it and I know it—the result, the end of this war, regardless of however many months or even years it lasts, will be this: that the Reich, the German Reich, or the Germanic Reich of the German nation will with just title find confirmation of its evolution, that we have an outlet and a way open to us in the East, and that then, centuries later, a political Germany—a *Germanic World Empire* will be formed. That will be the result, that will be the fruit of all the many, many sacrifices, which have been made and which must still be made." (III/23, Doc. 1919-PS.)

This is the kind of maggoty meat on which the SS fed. This is the brand of criminal psychopathy they accepted as the expression of an exalted patriotism.

Although the SS organization was made up of the elite insofar as blood was concerned, it was ever in search of additional blood, and thus it developed an operation entitled, "Search for German Blood." This search was not restricted to an actual quest

for Germanic corpuscles; it included also good, valuable property such as farms, fields, and factories in Poland, which, upon confiscation, were to be given a Germanic character. "A beginning should be made as soon as possible with changing the style of farms, fields, etc., in order to give them a pure, German character. Great importance has to be attached to the planting of hedges, etc." (XI/119, Doc. NO-30.)

Then there was the SS Race and Settlement Main Office which selected families and individuals of non-German blood, fit for incorporation into the German nation. At a conference on 19 August 1943, between the RSHA and the Race and Settlement Main Office, it was even admitted that the German nation itself did not have fixed characteristics.

"Great weight must be attached to this point of view as the racial substance of the German nation is permanently subject to changes due to the incorporation of new families from formerly non-German nationalities. * * * In this connection the procedure of reincorporation into the German nation comprises the incorporation of whole families and individuals as recorded by the race and settlement offices as well as all such cases as are proposed by the Higher SS and Police Leaders, including all mixed marriages and all questions of nationality." (VI/53, 54, Doc. NO-1763.)

On 17 November 1943, chief of department [division] D of WVHA, ordered that in questioning inmates for re-Germanization or for special treatment, it became necessary to examine the prisoner from the racial point of view. It must be remembered that in SS language, special treatment meant hanging! (VI/55, Doc. NO-1452.)

Every code of chivalry bows in reverence before the church and clergy of all denominations and accepts with pride the protection of women and children the world over.

Although the SS organization was supposedly made up of the elite of German manhood, and although it pompously paraded an outward display of chivalrous ceremony, one searches in vain throughout the entire records of the organization for one single instance of a truly chivalrous deed. Into concentration camps they herded priests of all denominations; churches, and synagogues they desecrated and destroyed; women and children, if not Nordic born, were regarded and treated as weaklings.

Although the Nazi Government, in its early history, moved cautiously and slowly against the church in Germany proper, this caution dissipated and disappeared once the Nazi soldiers crossed the frontiers:

"In Poland as a first and eloquent example, the world learned

and became convinced of Hitler's destructive designs with reference to religion. The monument of the most Sacred Heart of Jesus at Poznan was blown up. They destroyed the stone chapelets with dynamite; the crosses were torn down and chopped to bits; churches were destroyed or converted into theatres, concert halls, (e.g., the cathedral in Gniezno), dance halls, or storage places for ordnance supplies. From numerous Polish diocese, as for example the diocese of Poznan, Breslau, Pomerania, Gniezno, and others, the Germans exported all the Polish priests that they could get their hands on to concentration camps. (In very many countries they were all murdered.) It was the German belief that once they rid the people of priests, their task of inculcating into the souls of the Polish people, their own impious and wicked religious beliefs would be much simpler. * * * The priests who were arrested, as well as the archbishop and bishop, were placed in concentration camps together with criminals." (*Doc. 1943-PS.*)

In December 1940, all priests imprisoned in various concentration camps were moved to Dachau. For a short period they were unmolested and were even allowed to hold chapel services. But on 24 September 1941, the Polish priests were deprived of their prayer books, rosaries, and all religious articles, and committed to manual labor. They were put to work at building crematories and gas chambers:

"Those priests who died were removed on wheelbarrows. The priests labored in the blazing heat and during inclement weather with no food and insufficient dress. SS troops gave the guards strict orders to use the clergy on the most difficult and hazardous jobs. Punishment was very severe for the slightest offense."

Their living conditions at Dachau were intolerable. (*IV/119, Doc. 1943-PS.*)

"In an assembly hall built to house 50 people, 308 priests resided. Three priests slept on a single bed. There was no opportunity for sleep or rest, yet it was necessary to do difficult manual labor. Their daily rations consisted of approximately one-eighth of a loaf of bread weighing about 185 grams, and one liter of watery soup. Of 1,646 of them who were arrested and sent to Dachau, 846 died as a result of the tortures inflicted there. Only 794 secular priests and monks, and also brothers of the same order remained." (*IV/120, Doc. 1943-PS.*)

Priests were used for medical experiments. Rev. Stanislaw Wolak, who spent 5½ years at Dachau stated:

"Of the twenty of us who were taken for experimental purposes, seven died a horrible death. Others remained crippled

for the rest of their lives. These were the methods utilized by barbaric Hitlerites in their attempt to make medical progress.” (IV/124, Doc. 1943-PS.)

At Auschwitz, clergymen were used for road-building—

“The steam roller used for pressing down gravel was tended and pulled by Catholic priests only. They were whipped with clubs until they fell unconscious, and then the steam roller rolled over them and crushed them.” (XVIII/178, Doc. 2223-PS.)

That part of this opinion which treats of racial extermination will describe how children in concentration camps were gassed and cremated, sometimes cremated before being gassed. No language is capable of conveying the horror of these deeds. All we can do in this opinion is to quote from official records, documents, and the testimony of witnesses, so that in some later period a Dante or a Victor Hugo may be found who will tell in words of searing agony this great shame of the human race in the 20th century.

Only a Shakespeare could find the appropriate level of literary ignominy to which to consign the SS general who ordered the execution of 20 children because they had been experimented on, and then sent to the gas chambers, the four nurses who had witnessed the experiments. (V/133, Doc. NO-1201.)

At Auschwitz, one SS doctor, Hauptsturmfuehrer Mengele, conducted a series of experiments on twin children. During the experiment he accorded them the best of care, provided excellent lodging, and abundant food. The children were valuable for his studies ordered by the “Rassenforschungsinstitut” [Institute for Racial Research] in Berlin. Once the experiment was completed, he “took the children to the gas chamber where he himself shot them down with the pistol.” (XI/37, Doc. NO-1949.)

On 6 January 1943, Himmler wrote Pohl:

“In operations against guerilla troops, men, women, and children suspected of guerilla activities will be rounded up and shipped to the camps in Lublin or Auschwitz.” (XII/55, Doc. NO-2031.)

It will be noted here that Himmler demands the arrest of all those who are merely *suspected*. Since there exists no rule to guide the serpent of suspicion, especially when it is armed with the fangs of prejudice, therefore, women and children could be, and were, picked up on the mere whim and caprice of the arresting party. The women were put to work in concentration camps; “racially worthless adolescents were assigned apprentices to SS economic enterprises,” and children were placed in collective camps where they were to be taught “obedience, diligence, uncon-

ditional subordination, and honesty towards their German masters." It is interesting to observe that the honesty to be imparted to the children was to be limited to that due German masters. Of course in addition, the children worked as stone masons, locksmiths, joiners, weavers, spinners, and knitters on the farms and at other jobs. (*XII/55, Doc. NO-2081.*)

The fight against partisans was often used as an excuse for wiping out whole families and clans.

"The men of a guilty family, in many cases of the whole clan are to be executed on principle; the women are to be arrested and taken to a concentration camp; the children are to be removed from their homes, and concentrated in that part of the Gau that had originally belonged to the Reich. As to numbers and racial value of these children, I am expecting separate reports. All property of the guilty families will be confiscated." (*IV/79, Doc. NO-681.*)

Women in the concentration camps on the whole fared worse than the men, "because nobody concerned themselves about them."

One prisoner, speaking of conditions at the women's concentration camp at Ravensbrueck stated:

"Even if on the whole the working conditions and the camp conditions did not turn out to be so harsh as in Buchenwald, we, however, certainly were acquainted with the fact that common means of punishment were cutting off the hair of the female prisoners and beating the prisoners on their naked buttocks."

Children also worked with the women, some as young as 8 years of age.

Pohl, on the witness stand, justified the presence of many children in the concentration camps on the ground that they also, in their own way, participated in the guerilla warfare against the Reich.

Upon the arrival of the first shipment of Jews from Hungary, Pohl notified Himmler that 50 percent of them were women.

"Since there is not sufficient adequate, purely female work available for this large number of women, we must put them to work for OT construction projects. Your approval is requested." (*XIII/34, Doc. NO-592.*)

Himmler reported: "Of course Jewish women are to be made use of for labor." And then as a gesture of solicitude for their health, he instructed Pohl to "be sure to import garlic from Hungary in sufficient quantity." (*XIII/36, Doc. NO-030b.*)

Himmler was not entirely devoid of a sense of benevolence. On 14 July 1943, he ordered that the infliction of punishment on Russian women was to be done by Polish women; and on Polish

and Ukrainian women, by Russian women. "And as a reward the prisoners inflicting a punishment were to be given a few cigarettes." (V/177, *Doc. 2187-PS.*)

And as further evidence of his tender heart toward woman-kind, attention is directed to his order of 22 January 1943, "that women sentenced to death shall have no previous indication of the proposed execution of the death penalty." (VI/11, *Doc. NO-1526.*)

Never, however, was he so touched as when he learned (in the development of his plan that prostitutes were to warm men used in the freezing experiments), that a truly Nordic woman was being serviced for this job. This should never be, he declared, because "she belongs to that type of girl upon whom the attempt must be made in order to save her for the German people, and for her yet later life." (VII/102, *Doc. 1583-PS.*)

The writer of this opinion does not believe that the German people en masse knew of the obscenities, imbecilities, and criminalities of Himmler. However, the SS leaders and subleaders could not fail to be familiar with Himmler's schemes and ventures which ran the whole gamut of crime from petty thievery to mass murder. These trials are not only to render justice in accordance with the rules of law and humanity, but they are also to serve the purpose of acquainting the German people with the true character of the false gods they idolized and blindly followed. The German people must be enlightened on all the arrogance, conceit, pusillanimity, and brutality which went into the SS uniform. The German people must learn what pigmies rattled about in the big black boots of the Rottenfuehrer, Hauptscharfuehrer, Sturmscharfuehrer, and Obergruppenfuehrer. They will then demand in the future a show of worth, of religion, of honesty, of fundamental decency in a man before accepting him as a leader.

The tinsel trappings must be torn away and the SS revealed in all its shamelessness and cupidity. The German people must know the SS scale of values. Concentration Camp Inspector Morgen, in bringing charges against one Standartenfuehrer Koch, commandant of Buchenwald concentration camp, listed his offenses as; first, embezzlement and disloyalty; and *second*, murder. To the SS hierarchy human life was not as important as money and what it stands for. It was this type of gross presumption which placed SS men outside the doors of the Quedlinburg Cathedral to charge an entrance fee and in recompense hand the visitor a booklet, containing a speech by Himmler. (XVII/192, *Doc. NO-547.*)

The German people must look beyond the absurd body-jerking, infantile, goose-stepping of the SS and the even more absurd

speeches of their leaders; and read some of the orders issued in all seriousness by this fantastic organization. One order to the SS guards in concentration camps proclaimed: "An SS man must be a leading example to the prisoners if the prisoners are to respect an SS guard. An SS guard must show pride and dignity and demonstrate through his example to the Communists and plutocrats that he is the bearer of the Third Reich." And then, so that no Communist or plutocrat might lose his awe for the SS man, the latter is particularly instructed not to avoid "falling rain by taking cover under trees or protruding wall pieces." (!!)

(IV/39, *Doc. 1216-PS.*)

That was the Nordic-blooded, dashing, and elite SS.

CONCENTRATION CAMPS—ORIGIN AND DEVELOPMENT

Goering is credited with originating and establishing in 1933 the first concentration camp in Germany, the object of which was to concentrate within its restricting barbed wire, machine guns and the circle of influence of ferocious dogs, and occasionally even more ferocious guards, all the political enemies of the State. Not only those who *had* opposed the Nazi Government which had just seized power, but all those who *might* oppose it, were isolated and restrained. It was enough to be accused of anti-Nazi activities if the subject talked against or even expressed a doubt about the policies of the government, if he listened to a foreign broadcast or expressed a defeatist attitude. It was enough to be committed to a concentration camp if a member of the German police, the Gestapo, or any one of a number of so-called security organizations suspected one of anti-Nazi behavior. Nor was there a judicial hearing of any kind. And once within the concentration camp the victim had no assurance when, if ever, he would be released. If a time limit was specified, it was seldom adhered to. The doomed prisoner remained until he was released by the RSHA (Reich Security Main Office) or was liberated at the end of the war by the Allied armies, if he had not died in the meantime.

Generally the population of a concentration camp was made up of three categories: (1) political enemies of the State, such as Communists; (2) criminals so adjudicated by the criminal code; (3) anti-socials.

The third classification was the most numerous. One became an anti-social very easily in the Nazi State. The good substantial citizen who discharged his National Socialist butler or the reliable, sober working man who changed his employment without the permission of the National Social Labor Exchange, found himself

pronounced anti-social and soon inside a concentration camp wearing an insigne dedicated to that category of crime. (*Tr. p. 755.*)

Each inmate wore on the left breast of his striped prison suit a colored triangle, surmounted by his serial number, which from that moment became his name. Political prisoners were identified by a red triangle; criminal prisoners by a green triangle; immigrants, a blue triangle; Jews, a red and yellow triangle, superimposed to form a David's Star; asocial elements were distinguished by a black triangle; recidivists by a red triangle, and a red bar for each repetitive offense. Many prisoners also carried a bull's eye painted over the heart and back, this serving as a target for the SS guards. A punishment disk (red and white circle) marked prisoners inducted into a penal company for punishment. (*VI/110, Doc. NO-2122.*)

At the outbreak of the war, 1 September 1939, there were six large concentration camps in Germany, Dachau, Sachsenhausen, Buchenwald, Mauthausen, Flossenbuerg, and Ravensbrueck. (*II/66, Doc. R-129.*)

Between 1940 and 1942 nine more camps were erected, Auschwitz, Neuengamme, Gusen, Natzweiler, Gross-Rosen, Lublin, Niederhagen, Stutthof, and Arbeitsdorf. (*II/66, Doc. R-129.*)

On 30 April, 1942, Pohl reported to Himmler that the war had brought about a marked change in concentration camp policy. Whereas originally the inmate was incarcerated for the sole purpose of State security, his incarceration would now serve another purpose: He would be put to work.

"The mobilization of all prisoners who are fit for work, for purposes of the war now, and for purposes of construction in the forthcoming peace, come to the foreground more and more. From this knowledge some necessary measures result with the aim to transform the concentration camps into organizations more suitable for the economic task, while they were formerly merely politically interested." (*II/67, Doc. R-129.*)

This was held by Pohl as a great step forward, and he ended his letter to Himmler on the jubilant note of—

"The collaboration of all authority goes on without any friction, the abolishment of lack of coordination in the concentration camps is hailed everywhere as the shedding of the fetters hindering progress." (*II/67, Doc. R-129.*)

Around each concentration camp mushroomed work camps to accommodate the inmate workers, every month being employed on a vaster scale. On 5 April 1944, Pohl reported: "There exists at present:

"In Reich territory 13 concentration camps

"In Government General 3 concentration camps

“In Eastern territories (Ostland).. 3 concentration camps
 “In the Netherlands 1 concentration camps

TOTAL 20 concentration camps

“In addition the following work camps are maintained
 (IV/16, Doc. NO-020):

“In Reich territory 130 work camps
 “In Government General 3 work camps
 “In the Eastern territories (Ostland)..... 30 work camps
 “In the Netherlands 2 work camps

TOTAL 165 work camps”

Then with evident pride Pohl adds in his own handwriting: “Dur-
 ing Eicke’s time there were altogether 6 camps! NOW: 185!”
 (IV/16, Doc. NO-020.)

Before the Nazi Government reached the stage of absolute in-
 difference to world opinion, an attempt was made to camouflage
 the true purpose of concentration camps. Thus, one of the captured
 Reich documents carries this interesting revelation:

“According to information received from the chief of the
 Security Police and the SD, the term: ‘Civilian Internment
 Camp Bergen-Belsen’ must be replaced, for tactical reasons by
 the term:

‘Staging Camp Bergen-Belsen’.

This change is necessary because, according to the Geneva
 Convention, civil internment camps must be open to inspection
 by International Commissions.” (IV/52, Doc. NO-1291.)

Some idea of the rapid expansion of concentration camps can
 be gained from the fact that whereas in 1939 Buchenwald held
 5,300 prisoners, and in 1942, 9,000, it had swelled by the end of
 the war to a population of 20,000, including 1,000 boys under
 14 years of age. Of course, with the adoption of the work policy
 in concentration camps, inmates were no longer limited to Ger-
 mans, or even foreigners who by the remotest reasoning had
 been hostile to the Nazi State. The Reich Government had now
 embarked on a slave labor policy whose tentacles reached out to
 draw into its workshops the nationals of every nation it had
 overrun. Thus, the nationalities represented in Buchenwald in
 April 1945 were listed as follows (VI/68, Doc. L-159):

French	2,900
Polish	3,800
Hungarians	1,240
Yugoslavs	570
Russians	4,380
Dutch	324

Belgians	622
Austrians	550
Italians	242
Czechs	2,105
Germans	1,800
Dutch	260
Anti-Franco Spanish and miscellaneous.....	1,207
	<hr/>
TOTAL	20,000

Russians were always a prolific importation and they came in such numbers that on 1 August 1942, the chief of department [division] D, WVHA, notified the commanders of all concentration camps:

“In order to save paper and labor, I, therefore, direct that neither the arrival of such a prisoner, nor his transfer into another camp is to be individually reported; moreover, no camp index cards are to be made out and sent to the Reich Security Main Office IV C 2. Reports to this Office are not to be made either.” (*IV/8-V/50, Doc. NO-1017.*)

In their general indifference to international law it was not to be expected that the Reich hierarchy would be concerned about the Geneva and Hague Conventions. In defiance of these conventions, prisoners of war were not only imprisoned in concentration camps, but were made to work in armament factories. Even officer prisoners of war were required to work. On 6 August 1944, we find Himmler demanding:

“Find out what the Polish officers still in the prisoner of war camps are doing. Have they been assigned to work, or not? If not, I suggest they be transferred to the concentration camps immediately and be assigned to work as prisoners.” (*XIII/89, Doc. NO-071.*)

At Dachau, 2 May 1945, 48 hours after the camp's liberation by the American forces, a United States investigating Congressional Committee found a population of 30,000 political prisoners living in barracks or sheds, none large enough for the hygienic accommodation of its occupants. A description of the outer aspects of the camp gives a general picture of most concentration camps:

“Two high, parallel barbed-wire fences surrounded the camp, the inner one 15 feet from the outside one, which was electrically charged. At intervals of about 50 yards, 20-foot towers rose above the outer wire, and from these towers armed guards looked down on the interior of the camp. At one end of the large enclosure was an open space for assembling the prisoners, and at the extreme end was a large administration building. An inspection of one of the better barracks for men disclosed 390

jammed into a room built to accommodate 50. Most were suffering from typhus or tuberculosis, and all were living skeletons due to lack of food. Outside, lying in rows, were about 300 bodies of those who had died and had been collected that morning from the various barracks." (VI/76, 77, Doc. L-159.)

On 14 April 1945, Himmler had ordered that these prisoners (30,000) were to be liquidated in the event the Allies arrived. Three hours before the bloody, mass extermination was to go into effect, the American forces liberated Dachau. (IV/120, Doc. 1943-PS.)

An investigation conducted by a war crimes team of the U. S. Ninth Army at Nordhausen, reported that between 75,000 and 80,000 forced laborers were imprisoned here. At the time of the liberation conditions in this camp were indescribably appalling. The dead bodies "were emaciated, and bony prominences of the skeletons were conspicuous under the skin. A pile of bodies, the result of one-day's deaths, was found under the steps." The mental condition of the prisoners had degenerated with their physical condition. Both living and dead were found in the same beds. Some effort had been made to burn the bodies; and partially burned, blackened bodies of 100 children lay about the premises. No organized effort was made to bury the dead. (XI/74, Doc. 2222-PS.)

Auschwitz, the largest of the concentration camps, contained at its peak a population of 125,000 and because of its size was, 5 May 1944, divided into three camps.

Eugen Kogon, a highly intelligent person who served many years as a concentration camp inmate, and from his experiences and study, wrote a book entitled, "The SS State", testified at length before us. He calculated that the average current population of inmates in all camps during the years of the war ranged between 600,000 and 1,000,000, and that in all, 8,000,000 people went through the concentration camps. Approximately half a million of these were Germans, the rest foreigners.

The supreme authority in every concentration camp was the camp commandant. He allocated the labor, prescribed the hours of work, the food and rest, established living conditions, and imposed all disciplinary regulations. He ruled with a rod of iron. His authority was absolute. Under the camp commandant came the camp adjutant who exercised a double function. He was subordinate to the Higher Police and SS Leaders in the district in which the concentration camp was located, and he also represented the traditional authority of the Higher Police Officers on behalf of the SS. Then came the camp leaders, SS officers charged with the protective custody of the inmates. Below the camp leaders,

ranked report leaders who regulated the relations between inmates and the camp leader and camp commandant. Still further down the scale appeared the SS block leaders, each one supervising from 150 to 800 inmates, depending on the size of the block. Then there were the SS guards who manned the towers and machine guns, and guarded the prisoners at their work.

Each concentration camp had a central administration with a so-called political department which was under the camp commandant and had direct communication with the Gestapo and the Reich Security Main Office.

Since the SS did not bother itself to carry out all the practical work in the camps, a so-called self administration on the part of the prisoners was allowed. This self administration was invariably led by a well tested criminal, selected by the SS for his ability and personal power to carry out the orders of the SS, and to oppose his own comrades in the camp.

The term, "concentration camp," was brought home to America directly in a report made by SHAEF on the alleged murder of American and British prisoners of war in Sachsenhausen. According to the testimony of a German civilian inmate of the camp, between 60 and 80 American and British pilots, after having been questioned in the Gestapo headquarters at Berlin, were taken to Sachsenhausen and there, in May 1943, killed by machine gun fire. The clothing of the Allied soldiers was distributed among the internees, the witness claiming to have received himself an American combat jacket. This witness, Willi Feiler, also declared under oath before the American court of inquiry that at Sachsenhausen 18,000 Russian prisoners of war were thrust into barracks intended for only 1,600, that no food was served them, and that through shooting and starvation, the whole group had perished in 7 days. When 8,000 more Russian prisoners of war arrived, they were thrown into an enclosure under the muzzles of machine guns and held there without food or water. The witness described in the most harrowing language watching these prisoners starve. He said: "Human beings were crawling around like worms. I saw with my own eyes that the living ones had started to eat the dead ones." (*V/28, Doc. NO-1932.*)

TREATMENT OF CONCENTRATION CAMP INMATES

In the grillwork of the iron gates at the entrance to the Buchenwald concentration camp, large metal letters proclaimed, "WORK REDEEMS." Dr. Eugen Kogon, however, who spent 4½ years in this camp, declared that as he observed the type of redemption

to which workers in this camp were doomed, he saw that pronouncement change into the inscription:

*Per me si va nella città dolente,
Per me si va nell'eterno dolore,
Per me si va alla perduta gente.
Lasciate ogni speranza voi ch'è entrate!*
(Through me you enter the City of those elected for grief,
Through me you enter to eternal pain,
Through me you enter to the people of the lost.
All hope abandon ye who enter here!)

Asked to describe a typical arrival at a typical concentration camp, Dr. Kogon testified that while generally the reception accorded a new arrival exceeded in distress what he had anticipated, the reception did not necessarily need to be a cruel one. "It would happen, for instance, in 1942 if you were a German or member of a nation not particularly hated by the Nazis, that when you arrived you were well treated. *You were not even beaten.*" (*Tr. p. 766.*) Not being physically manhandled was regarded as a special consideration. If, however, you were a French (we won't mention if you were a Jew), you were treated in a manner, "which cannot be imagined or described." High civil service men, to the tune of 150, came from Compiègne to Buchenwald, "and 35 corpses fell out." (*Tr. p. 766.*)

Political prisoners, and particularly Jews, were to be humiliated personally, and their will broken. They were compelled to stand in the sun for hours with their arms behind their heads. They had to squat or sit on their knees. Jews, in all cases, were given a beating with a stick five times or more. They were mistreated because they were *Jews*. (*Tr. p. 767.*)

Camp rules were read to the arrivals, and as the SS leader droned out the Draconian regulations, they constantly heard: "This will be punished by death; that will be punished by death." The rules were never written out. If an inmate asked just what he was permitted to do, the SS man accosted, invariably replied: "You can always commit suicide. You can hang yourself. You can run into a barbed wire."

The prisoners' hair was shorn, their personal property taken, and then they were driven across the camp square naked. They were now supplied with concentration camp uniforms—trousers, a thin jacket in zebra colors, and wooden shoes without leather. These wooden shoes were not only a torment to the feet, especially when the inmate was compelled to run on the double, but they precipitated even nervous disorders.

While the less mentally agile suffered their own punishment

in that they were unable by exercise of wit to escape tortures the more resourceful could avoid, still no greater misfortune could befall an inmate than to be recognized, or to be suspected of being, an intellectual. All those who wore spectacles were subjected to a hazard all their own. Goebbels had declared that "these intellectual beasts are dangerous." "Thus these intellectuals," Kogon pointed out, "or those who looked like intellectuals, were allocated to labor detachments where they perished quickly." (*Tr. p. 769.*)

The day's routine began (in the summer) at 4 in the morning, in the winter at 6 o'clock. En masse the inmates marched to the parade ground of the camp where the roll call (always by numbers and not by names) was called. A report was also made of those who had died during the night. Then some of the prisoners were called to the gate, not knowing what to expect. The quaking inmate might be required to stand there until night, receive a letter, be called to the political department to undergo a long, intense examination, or he might be called to the camp commandant and within 5 minutes be hanged. One inmate was compelled to stand at the gate all Christmas day, and then that night he was informed of a telegraphic message which announced his father's death. (*Tr. p. 783.*)

Following the morning roll call the work details were announced, with an intense struggle ensuing on the part of the inmates to obtain the tools for the particular job to which assigned. This enthusiasm for tools arose not out of the desire to work, but because "anyone who appeared during working hours without tools was either beaten to death by the SS Kommandofuehrer [detachment leader], or his number written down and a report turned in for a subsequent punishment. (*Tr. p. 773.*) In columns of five the inmates now marched to the place of employment which might be a stone quarry, clay pit, ammunition factory, or construction job anywhere from 1 to 20 kilometers away. When the day's work was done, which did not exclude indiscriminate floggings, each inmate was obliged to pick up bricks or a stone, at least 10 pounds heavy, to carry to the camp for no useful purpose:

"During my whole life I did not know that it was possible to walk during a snow storm and in the condition that we were, without gloves and to carry five bricks on the left shoulder after such a long working day for a distance of a kilometer and a half. I could not believe it. If we had any wounded among us, or any dead ones, then we had to carry them with our working commando into the camp." (*Tr. p. 775.*)

Back at camp the inmates dropped their stones and assembled

for roll call again, and then the punishments were carried out. Sometimes collective punishment, every tenth person, was inflicted. The floggings usually consisted of between 5 and 25 whippings. The victim was required to count the strokes with the whipping SS Scharfuehrer. If a mistake was made, the whipping then started all over again from the very beginning. (*Tr. p. 779.*)

The rules required that every punishment be approved by Berlin, but it was the practice "to beat the inmate first and then send the request to Berlin. When the punishment came back okayed, which it invariably was, the punishment was inflicted all over again." The rules also provided that camp physicians had first to examine the inmate to establish if he could stand the whippings, witness Kogon testified:

"From my long experience in the concentration camp I only know of one case where the camp physician, during such a discussion, raised an objection and the punishment was interrupted." (*Tr. p. 779.*)

An inmate could be punished for almost any reason. Perhaps he had looked at an SS leader in an "unruly manner." Or perhaps he had, in order to protect himself from the rain, placed a paper bag under his clothing. This would constitute sabotage. It might be that the SS Leader considered that the stone carried by the inmate was not clean enough, or that the inmate might have picked up a fragment of a cigarette stub dropped by the SS guard. An inmate could be flogged because he gave an incorrect answer to an inquiry. He could be called to the gate, and then asked why he was standing there. He could not answer because he did not know the answer. Or he could be beaten because he answered in a fresh manner, for instance, "I don't know why I am standing here."

The punishments were by no means restricted to floggings. Russians, who took a piece of wire to tie their wooden shoes together so as not to lose them, were charged with sabotage and hanged. (*Tr. p. 953.*) If someone tried to escape he was hanged in the presence of all inmates. Then there were specialized tortures. An inmate could be fed salt herring without water until he went crazy, or he could be hanged head down. Punishment?

"People were hanged to trees so that their toes could not touch the ground; people were hanged to wooden logs; people were killed, hanged, choked, shot to death." (*Tr. p. 784.*)

Concentration camp commandants were authorized to hang immediately all prisoners who refused to work. In the event of an air raid, prisoners who did not return within 12 hours after the all-clear signal were to be hanged. (*III/111, Doc. NO-2327.*)

Evidently realizing that the normal human being thinks well

of his fellowman and would rather discount stories of inhumanities which go beyond the pale, witness Kogon exclaimed in Court: "These things are not things I am imagining at the present moment, they actually happened to comrades of mine in the concentration camp at Buchenwald." (*Tr. p. 784.*)

This business of punishment was not a matter of spontaneous ire with quick irresponsible chastisement. There were regularly printed forms indicating the type of punishment, the blows to be administered, etc.

A court of inquiry, acting for Supreme Headquarters Allied Expeditionary Forces made an investigation at the Dora camp near Nordhausen shortly after its liberation by the Allied forces. One inmate on April 13, 1945, related a particularly horrible incident:

"I mention an example of greatest bestiality: A woman in the last stages of pregnancy was thrown down by an SS man who then stepped on her with his boots until birth was forced. In blood and pain the woman died wretchedly. Similar scenes were frequently repeated. This small report is just a tiny part of what Hitler's Germany has done." (*VI/92, Doc. 2222-PS.*) Kasimierz Czystewski, an inmate at Buchenwald concentration camp described treatment of prisoners:

"At the commands (Kommandos) [working places] of the labor offices the prisoners were whipped by the SS, with the assistance of various Kapos (prisoners used as barracks policemen). Then a board was laid over the neck of the fallen prisoners. Two of the prisoners stood on it in see-saw fashion and throttled the prisoners. When the commandos (Kommandos) [detachments] entered camp, roll call was taken of the dead who had been murdered there up to a hundred each day." (*XVIII/178, Doc. 2223-PS.*)

Life was very cheap in a concentration camp. Waldemar Hoven, assistant medical officer at Buchenwald, in relating conditions at that camp, told of the jealousy on the part of some prisoners against other prisoners holding key positions. The former envied the leaders and made every effort to discredit them. This was considered a traitorous action and the person performing it a "traitor." In a very casual fashion, Dr. Hoven stated that 150 of these traitors were killed:

"The total number of traitors killed was about 150, of whom 60 were killed by phenol injections, either by myself or under my supervision in the camp hospital, and the rest were killed by various means, such as beatings, by the inmates." (*X/126, Doc. NO-429.*)

Paul Bennart, who served at Dora and Buchenwald, interviewed

by an officer of U.S. First Army, answered as follows on treatment in a concentration camp:

"Q. Did you see any shootings or hangings at Sachsenhausen?

"A. Yes. I saw Hauptscharfuehrer Gustaf Sorge shoot a Russian because the Russian would not stand at attention. Gustaf Sorge lives at Oranienburg, near Berlin.

"Q. Did you see any shootings or hangings at Dora during the time you were there?

"A. Yes. I saw groups of two and three men which would total approximately sixty, hanged for alleged sabotage. All of the prisoners and workers were compelled to watch these hangings, which occurred in April and May 1944. The hangings were usually held on Sunday during roll call. These people were mostly Poles, Russians, and Czechs, whose names I do not know. I do recall a German prisoner named Schrader being hanged for having stolen some alcohol.

"Q. Who usually conducted the hangings?

"A. Most often they were ordered by Hauptscharfuehrer Brumm and in many cases the prisoners were compelled to hang other prisoners under penalty of execution for their failure to cooperate. There was an order issued by Sturmbannfuehrer Forschner that prisoners who refused to assist in the execution of other prisoners would themselves be executed." (XI/84, Doc. 2222-PS.)

At times, when an inmate's death was decided upon, the camp commandant would inform him that on the following day he was to try to escape. In the camp office, the man's death already had been recorded "killed while attempting escape." The Austrian Consul General, Dr. Stiedler, was informed one day of the fate which awaited him the following day. Dr. Stiedler pleaded that he could not do this since he was a faithful Catholic, and condemned suicide. Nonetheless, the next day, while approaching a chain of guards, he was shot down. (*Tr. p. 937.*)

The witness, Josef Ackermann, who related the above incident, was an inmate first in Dachau, then in Buchenwald, and then in Nordhausen. At Buchenwald he served as physician's clerk in the pathological section, and was required to keep records of autopsies. The chief of the medical department in department [division] D, WVHA, Dr. Lolling, frequently wrote the director of the pathological section at Buchenwald: "I need immediately 10 entire skeletons, 12 skulls, or individual parts of the body, or we need some interesting bullet wounds." One day the camp physician, pointing to an inmate passing by, said to the witness:

"Dr. Ackerman, I would like to have this skull on my desk tomorrow." And then, according to the witness:

"The very same evening, the prisoner was ordered to report to the hospital and on the next day he was on my autopsy table and the skull was taken apart, and it was turned over to Dr. Hoven." (*Tr. p. 940.*)

One specialty of the pathological section of the Buchenwald concentration camp was to remove the skin of prisoners and tan it:

"Production was carried out by two ways, either it was put into a transparent form, or it was tanned so that the skin became tough, like leather." (*Tr. p. 940.*)

The inmate who carried tattooed pictures on his body walked a precarious path. He was immediately catalogued and his skin marked for the collection (after his death) of tattoos kept in the special museum in Berlin. Hunchbacks or other persons with a body structure of medical interest excited the anatomical and macabre avarice of half-crazed doctors who were not averse to killing to obtain the skeletons to incorporate into the collections of the SS doctors, or the display in the SS Medical Academy at Graz. (*V/178, Doc. 499-PS.*)

Delving into the medieval past for ideas on torture and brutalities, devising schemes of their own for unique, sadistic practices on the body and soul of their fellowmen, the degenerate and power-crazed SS men, ever seeking some new, bizarre bestiality for their criminally warped imaginations, went to the jungle tribes of Africa for anatomical grotesquenesses not theretofore known in Europe. As Indians scalped their deceased foes, certain African tribes bore away the decapitated heads of their felled enemies, and by a certain process reduced them to the size of a doll's head. A returned traveller from Africa was taken into the pathological section to instruct the SS staff in the mysteries of skull shrinking, and the revolting hideous thing was done. Various heads were shrunk, and, according to the witness, the SS men liked to have these things on their writing desks in order to consider themselves important. (*Tr. p. 943.*)

To what incredible nadir had human decency descended in SS Germany?

Death in a concentration camp at Buchenwald had reached such a degree of casualness that camp physicians demanded to know why reports were being made on the death of political Russians. "Time and paper (!) could be saved if these reports were dropped." (*IV/56, Doc. NO-2148.*)

Dr. Francis Mis, a Yugoslav who had studied at the Harvard College in America, was an inmate at Dachau at the time of its

liberation by the American Forces. On 4 May 1945, he was questioned at length on conditions in the camp prior to its emancipation. He stated that upon arrival in the camp (4 September 1944) he was taken to the quarantine barrack where five slept in each bed and where lice and vermin were rife. Put to work as a physician he found prisoners suffering from dysentery, which he attributed to bad and insufficient food. As a result of the malnutrition about 3,000 inmates died between September 1944 and April 1945. Ten thousand more died from spotted fever and 1,000 died from tuberculosis. (*V/135-140, Doc. 2428-PS.*)

At Buchenwald the ration allowance amounted to between 600 and 700 calories per day and consisted generally of a weak soup made from cabbage and other vegetables and a small piece of bread, 3 inches square. This meal was distributed once a day in the morning, and in the evening another small piece of bread was distributed. The diet was very deficient in animal fats and vitamins, and contained no meat. The U.S. Congressional Committee, examining this camp on 24 April 1945 reported:

“Available records at the time of liberation had been examined by the prisoners engaged in the administration of the camp, and the record revealed that 51,000 persons had died in the camp. At the time of our arrival the prisoners, in a pathetic gesture, had erected, of flimsy materials, a memorial to the dead of Buchenwald. Pictures and descriptions of the conditions at this camp cannot adequately portray what we saw there, and it is only when the stench of the camp is smelled that anyone can have complete appreciation of the depths of degradation to which the German Nazi Government and those responsible for it and its agencies, organizations, and practices had dropped in their treatment of those who had failed to embrace the doctrines of the ‘master race’.” (*VI/74-75, Doc. L-159.*)

One witness testified that at the Mauthausen concentration camp dead inmates were not reported dead but their bodies were dragged to the roll call and in this way the living inmates could draw the food for the dead people. (*Tr. p. 420.*)

In August 1943 the construction of a V-bomb factory was undertaken in tunnels at the foothills of the Harz mountains about 2 miles north of Nordhausen. Here, water for drinking and washing was found only where laborers could locate a leak in the pipes. The prisoners slept where they worked. Many died from respiratory diseases contracted in the damp tunnels, and others died of heart ailments due to underground pressure. (*XI/73-75, Doc. 2222-PS.*)

Any attempt on the part of an inmate to obtain food for himself could lead to disastrous consequences. At Flossenbuerg, prisoners who had stolen a frozen potato or a cabbage leaf were consigned to a so-called water hole where, with a heavy stone on their backs, they were made to run around in almost 30 centimeters of mud, where they either collapsed or voluntarily broke through the sentry lines. In any case the water hole was the equal of death. (VI/113, Doc. NO-2122.) At Ebensee the peelings required to feed 500 SS guards made up the midday meal for 15,000 prisoners. With these peelings the inmates received 100 grams of bread daily. (XI/40, Doc. NO-1949.)

At the Boelcke Kaserne at Nordhausen 1,500 grams of bread were allowed to eight men daily, and each received $\frac{1}{2}$ liter of watery soup. Because of this starvation diet the prisoners called Nordhausen the "Living Cemetery." (XI/88, Doc. 2222-PS.)

The Austrian Minister of Justice, Dr. von Winterstein, unable to stand the degradation to which he was being subjected in the Buchenwald concentration camp, was one of those who willingly walked into the chain of guards and was shot under the guise of an attempted escape. (Tr. p. 784.)

At Niedersachsen, the inmates were awakened at 4 o'clock in the morning and got a cup of coffee. They worked in the quarries all day, returned to camp at 9 or 10 o'clock, when they received $\frac{1}{2}$ liter of watery soup and sometimes two or three bad potatoes. By the time the inmate got to his bed on a bundle of straw it was midnight, thus having spent 20 hours on his feet with only 4 hours of sleep. From 2 February to 4 April, 1945, 3,500 inmates perished from hunger. (XI/76, Doc. 2222-PS.)

Almost nonexistent medical care, added to the lack of food, contributed heavily to the death rate. In the Neuengamme concentration camp there were from 3,000 to 4,000 sick inmates, and only one doctor with scarcely any medicine at all. (V/132, Doc. NO-1201.)

And in no camp did the prisoners have sufficient clothing in the wintertime to keep them warm. At Neuengamme a request was made for clothing for 15,000 prisoners, but only enough for 2,000 was supplied. Hundreds of prisoners suffered severely from frost boils and frozen feet. Office D III, WVHA, very frankly declared that it was impossible to clothe completely the 524,000 prisoners in the camps especially with 612,000 more on the way. Max Pauly, commandant of the Neuengamme concentration camp, declared that he had only enough garments to clothe completely 25 percent of the prisoners in his camp. And, as if in complete solution of this problem, Pohl declared by order on 7 September 1944:

"Subject: Supply of clothing for inmates of concentration camps."

EXTRACT

"* * * We shall not tolerate the fact that only complaints about the bad quality of the clothing are made and perhaps the inmate in question is even pitied because the poor fellow no longer had any shoes, instead of teaching him how to treat his clothes by giving him regularly a sound thrashing if necessary * * *."

PUNISHMENT AND DEATH IN CONCENTRATION CAMPS

We have seen how occasionally new arrivals were not even beaten upon entering a concentration camp. This omission was not always looked upon with approval. An SS Inspector of Security Police declared in a statement in Berlin on 16 June 1943, that "the punishment of thrashing upon arrival proved very successful." (*IV/88, Doc. NO-1073.*)

An officer in the Dutch Marines describing his introduction to the concentration camp at Sachsenhausen said:

"Once delivered into the concentration camp Sachsenhausen we were forced to obey the command 'hinlegen,' which means to lie down flat on the ground. Some of us who did not lie down fast enough according to SS Oberscharfuehrer Schubert, were kicked by him in the region of the kidneys and on the head." (*XI/35, Doc. NO-1949.*)

When this prisoner was asked his profession and he replied "officer," he was slapped twice in the face and ordered to make 250 deep knee bendings. When a prisoner of war asked for water he was answered with a kick in the face. (*XI/35, Doc. NO-1949.*)

One inmate, who inexplicably found something to smile about while standing in ranks, completely changed his mind about levity in a concentration camp when a Hauptscharfuehrer struck him with such violence as to knock out two teeth and fracture his nose bone. (*XI/36, Doc. NO-1949.*)

A prisoner's failure to tip his hat to an SS man was sufficient justification for his being beaten. (*XI/75, Doc. 2222-PS.*)

However, beatings, floggings, and torture, no matter to what degree inflicted, were not the utmost limit of a concentration camp inmate's fate. He ever walked the brink of death over which he could topple for reasons less than reason. A court of inquiry, on behalf of the Supreme Headquarters AEF [SHAEP], found at Dora that SS guards shot laborers upon the slightest pretext.

"Six prisoners were shot one day because they had left their place of work to go to the water closet." Executions were often performed without trial over the shallow guise of the condemned man's having been a saboteur. On 13 March 1945, 13 inmates, one a Yugoslav doctor accused of administering medical assistance to prisoners, were hanged. (*X/75, Doc. 2222-PS.*)

The camp commandant of Neuengamme, commenting, after the war, on 250 prisoners executed during his incumbency, said: "Frankly, I do not know the reason for their execution." (*V/133, Doc. NO-1201.*)

At Mauthausen the most usual way of accounting for murdered prisoners was to declare them shot while escaping. In point of fact it was impossible for a prisoner to escape. The doomed prisoners were simply driven to the chain of the military post where they were shot down by the guards. It was an unwritten law that anyone shot while trying to escape had to die that same day. Thus inmates who had received only a scratch of a wound and would have been able to carry on were killed by an injection although the report would indicate that he had died from gunshot wounds. (*Tr. p. 958.*) In June 1941, Himmler visited Mauthausen and upon arrival found an inmate who that day had been shot while in an escape attempt. The man's wound was obviously mortal, but Himmler ordered: "I want this man to be dead by this evening." (*X/142, Doc. NO-2333.*)

Political prisoners who were particularly hated were made to carry stones of such a size and for such a distance that they collapsed. The prisoner being at the end of his strength was then beaten up to the chain of military posts where, under the pretense of firing at escaping prisoners, the sentries liquidated him. Occasionally a tree trunk was placed beyond the chain of military posts and prisoners were ordered to fetch it. They were then shot by the guards without any challenge. Occasionally the prisoner's cap was thrown into the chain of military posts and when he went to fetch it he was immediately shot by the guards. The camp was enclosed by an electrically charged fence. Prisoners were forced into this fence on which they remained for hours on end until completely charred or delivered by bullets. (*V/178/179, Doc. 499-PS.*)

Many prisoners hanged themselves to end their torture. (*V/179, Doc. 499-PS.*)

It often happened, however, that prisoners were killed by blows and then hanged to give the appearance of suicide. (*V/179, Doc. 499-PS.*)

"Prisoners who became unpopular or who were sent to Mauthausen to be eliminated, were paraded at night on the

parade ground, and the dogs of the chief of the concentration camp were let loose on them until the prisoners were literally torn to pieces." (V/180, Doc. 499-PS.)

In the wintertime some of the newly arrived prisoners were placed under a hot shower, then chased out to the parade grounds where they were required to carry out exercises in temperature of 20 to 30 degrees below zero, while being flogged, whipped, and kicked often with fatal results. (V/180, Doc. 499-PS.)

At the Gross-Rosen concentration camp a fund of 500 marks was set up for the person conducting the executions. The official order announcing this distribution ends with the statement that the award is "to be given only once, about which nothing must be said." (VI/10, Doc. NO-1991.)

At Buchenwald every evening the inmates were required to report for roll call, bringing with them the naked bodies of all comrades who had died during the previous 24 hours. At the "Little Camp" where prisoners slept 16 to a shelf, an infraction of discipline—particularly an attempt to escape—not infrequently resulted in all 16 being condemned to death. These prisoners were marched through a door into an open shaft where they crashed 13 feet down to the cement floor. As they hit the floor "they were garroted with a short double end noose by SS guards, and hung on hooks." Those who were still struggling were struck by a wooden mallet. The bodies were then taken to the incinerator room. For a period of 10 days in March 1945 the coal supply for the incinerator was exhausted. Awaiting the arrival of a new supply of coal, bodies to the number of 1,800 were allowed to collect in the front yard, stacked up like cord wood. When the Congressional Committee visited this camp immediately after the liberation they found a truck load of these bodies within the area of the incinerator. (VI/73, Doc. L-159.)

An American surgeon who entered with the liberating troops stated that the adult corpses weighed from about 60 to 80 pounds. (VI/74, Doc. L-159.)

Philipp Grimm, an SS man who had worked with the labor allocation office and in other capacities at various concentration camps stated that the number of deaths, as evident in the labor statistics in office D II, WVHA, amounted, according to his estimate, to 10 percent per month. In the defense plants the percentage was perhaps higher. (XI/213, Doc. NO-2126.)

Helmut Bickel, a German citizen who was an inmate at the Nordhausen concentration camp for 4½ years was called by the defense as a witness in behalf of defendant Mummerthey. This witness testified that 38,000 inmates died in Nordhausen in a period of 5 years. Commenting generally on concentration camps

he said that when plans for a new camp were being drawn up, the first item to be considered was not the kitchen nor the laundry, nor the workshops, but the crematory, the burial ground for the dead, and the punitive detachments. (*Tr. pp. 5394-5472.*) In one year, out of 10,000 population, 8,000 died, a death rate of 80 percent.

Wincenty Hein, a Polish lawyer and judge who had already served in camp Dora, estimated that at Dora and the surrounding 31 labor camps during the period of their existence, between 75,000 and 80,000 inmates perished. (*VI/90, Doc. 2222-PS.*)

At Dachau there was not a single day when the air was not filled with the sickly odor of burning human bodies. (*VI/107, Doc. NO-2122.*) The ex-inmate who made this statement was told of a certain Knoll, probably unbalanced, who was promised by the camp commander a snack (a piece of bread and piece of sausage) when he had completed the killing of 100 prisoners. On one occasion when Knoll asked for his snack, he was told he had not met his quota:

“Knoll replied that he had 97 and that he would finish off the remaining three quickly before noon. At noon we saw him enter the ‘Jourhaus’ (office building) and also saw him emerge again carrying the snack.” (*VI/107, Doc. NO-2122.*)

Lt. Jean Veith of the French Army described an ingenious device set up at Mauthausen for the liquidation of French prisoners. Upon arrival they were unclothed and taken to a bathroom. Here they were required to stand against a measuring apparatus which recorded their height. As each prisoner backed toward the metrical measure an automatic contraption released a bullet in his neck as soon as the determining rod measuring his height touched the top of his head (*Tr. p. 116.*) This same French officer told of a Pole, who, obviously deranged, approached an electrically charged fence. Veith pulled the man away, whereupon he was reproached by a SS Unterscharfuehrer who said that he wished to use this man as a target for firing with his automatic rifle. This SS Leader had already killed 50 prisoners in this manner. Prisoners not considered “worthy” to stay in the camp were shot in the neck while standing before their graves into which their inanimate bodies fell after the execution. (*XI/38, Doc. NO-372.*)

Dr. Edwin Katzen-Ellenbogen, a former American citizen, who had received various scholastic distinctions at American University, was arrested in 1941 by the Gestapo and eventually landed at Dora where he was used as a camp doctor. He saw 1,200 French officers sent to the Dora weapons factory to work. Of these 1,200, after 6 or 7 weeks, only 19 returned alive. Prisoners were compelled to work 14 hours a day and then beaten so that they could not rest.

"This was the method employed to kill off the French military intelligentsia." (XI/62, Doc. NO-2326.)

Where sabotage was suspected, the SS men had authority to kill "any halting civilian prisoner just like knocking the ashes from your cigarette." (XI/86, Doc. 2222-PS.)

We have quoted from Witness Kogon's description of a typical arrival in a concentration camp. A Polish architect, who served in the Auschwitz concentration camp, described his arrival to Lt. Col. Givens of the U. S. Army on April 22, 1945:

"Thousands waited naked in winter, in the ice and snow for frequent bathing in the mass pool which resulted in grippe, tuberculosis, and consequent death. Lice and vermin brought typhus, causing the death of thousands. In the 2-3 blocks up to a thousand prisoners were ill with typhus, and the camp doctor (an SS man whose name I don't recall) ordered whole blocks to be taken by truck to the crematory at Birkenau * * *. On the black wall of death in block 11 in Auschwitz thousands (according to my reckoning up to 50,000 prisoners) were killed by shots in the nape of the neck. They were mostly officers and the intelligentsia from all walks of life. Early in the morning during the roll call for work the prisoners were called in, taken to the office, and from there to the air raid shelter in block 11. They were brought out naked and were murdered by being shot in the nape of the neck by Oberscharfuehrer Pulitsch, Unterscharfuehrer Lachmann, Civilian Wosnica of the Gestapo and Hauptsturmfuehrer Aumeier. The blood was flowing in the gutter like a downpour of rain. Women and children brought from outside the camp were sentenced here by the special court and were also murdered. I myself witnessed these scenes from the neighboring block in which I lived. A pregnant woman with a two year old child in her arms was among them." (XVIII/177, 178, Doc. 2223-PS.)

There are no statistics on the number of concentration camp inmates executed just before the camps were liberated but it is known that Himmler issued a written order that camps "threatened by the Allied troops should be placed under the jurisdiction of the local Higher SS and Police Leaders. The disposal of the inmates was to be left to their absolute discretion. This order was executed and never rescinded." (XXII/14.)

SS INDUSTRIES

Although the original idea behind concentration camps was the immobilization of brains and hands which in some conceivable

way might undermine the Nazi tenure of power, it was not long until Himmler saw in these millions of idle hands a reservoir of manual strength which could be put to use for profit—lucrative profit. The SS would go into business.

With hundreds of army divisions marching all over Europe, industrial manpower at home became a critical item, and here, like an oil well discovered in one's cellar, were these hundreds of thousands of men for whom Himmler was responsible to no one but his nonexistent conscience. Publicly he wept that he had not thought of this before. When he learned that hundreds of thousands of Russian prisoners of war had died from exhaustion and hunger, his regret was not that they died but that it was deplorable by reason of "the loss of labor."

In a lecture prepared for SS men, the rhetorical question was asked, "Why does the SS engage in business?" The lecturer answered the question as follows:

"The era of liberal economic system demanded the precedence of economy, that is to say, first came economy and then the State. In contrast to that, National Socialism maintains this point of view:

The State gives orders to the economy. The State does not exist for the benefit of economy, but economy exists for the benefit of the State." (II/107, Doc. NO-1016.)

From the premise that economy exists for the State, it was a very short step to the proposition that all those subject to the State exist for the State. And if a man has no intrinsic right to exist within the State, it follows naturally that the State may use him as it sees fit. This proposition was very succinctly put forward in the lecture referred to.

"The Reich Leader SS in his capacity as chief of the German Police was confronted with the task of solving problems, which the Reich as such was not able to solve, viz to get hold of all antisocial elements, which no longer had a right to live within the National Socialist State, and to turn their working strength to the benefit of the whole nation. This was effected in the concentration camps. The Reich Leader SS, therefore, delegated SS Obergruppenfuehrer Pohl to set up concentration camp enterprises. In addition, he gave orders to establish companies on a private economy basis for the purpose of employing the prisoners." (II/107, Doc. NO-1016.)

And since the antisocialite lived only by sufferance of the State, it is easy to understand that the State had the right to employ him to the limit of his endurance, not even short of death. Instructions issued by the WVHA on 30 April 1942, over the signature of Pohl, provided that the employment of concentration camp

labor must be, "in the true meaning of the word 'exhaustive,'" and then, so that the inmate himself could feel the immediate absoluteness of his servility, full power to employ him was lodged in the concentration camp commander.

"The management of a concentration camp and of all the economic enterprises of the SS within its sphere of organization is in the hands of the camp commander. He alone is therefore responsible that the economic enterprises are as productive as possible." (*II/68, Doc. R-129.*)

The camp commander was authorized to establish working hours and working conditions, and so that he should not feel too restrained in this matter, the directive read:

"There is no limit to working hours. Their duration depends on the kind of working establishments in the camps and the kind of work to be done. They are fixed by the camp commanders alone." (*II/68, Doc. R-129.*)

With absolute dominion went every sense of restraint, even to the point where it brought diminishing returns to the master. Good business judgment would have dictated that, if not treated with exceeding care and comfort, the workers at least be supplied with a minimum of the bodily requirements so as to extract from them their best efforts in production. Even in the ancient days of slavery, the master was jealous of his slave's comfort and care because in him he had an investment. Of course, it may be that, because of the very fact the Nazi master had not expended a penny in the way of purchase, he subjected the slave worker to physical deprivations and, in addition, actual brutality. Always associated with the concept of work went the concept of extermination. These slaves were of inferior races: they were Poles, they were Slavs, they were Jews, they were in a word subhuman. Thus the inmates felt the whip, the lash, the spur of the mounted guard. The master profited regardless of results. If the slave produced, his hire enriched the coffers of the SS. If he succumbed and expired under the yoke of his labors, that made one less to corrupt the air to be breathed by the "master race." Thus from time to time the inmates were forced into tasks which brought only exhaustion, frustration, and despair. Heavy rocks were loaded on their backs to be by them transported to meaningless destinations, and there the human beasts of burden were ordered to take the loads back to the starting point. Brick and stone walls were erected, demolished the next day, and on the third day wearily constructed again.

In his Metz speech, Himmler said on this point:

"This activity is necessary, as I said, (1) to eliminate these negative people from the German people, (2) to exploit them

once more for the great fold community by having them break stones and bake bricks so that the Fuehrer can again erect his grand buildings, and (3) to in turn invest the money, earned soberly this way, in houses, in ground, in settlements so that our men can have houses in which to raise large families and lots of children. This in turn is necessary because we stand or die with this leading blood of Germany and if the good blood is not reproduced we will not be able to rule the world." (*Doc. 1918-PS.*)

With overwork, mistreatment and undernourishment, the concentration camp workers died off in such numbers that their replacement became a critical item. Rudolf Hoess, chief of office D I, stated that in the more dangerous and more exhaustive jobs, 20 percent of the workers perished each month as the result of overwork or extermination because of inability to work. The situation reached such an alarming stage that the chief of Security Police and SD complained in December 1942:

"But I should like, however, to point out in this connection that because of the great number of deaths in the concentration camps, it was impossible to increase the total number of prisoners, in spite of the increased numbers sent to them recently, and that with a constant or even increasing death rate, it is unlikely that an improvement can be effected even by sending an increased number of prisoners."

In the same month the medical office D III complained to the camp doctors of all concentration camps:

"In the enclosed, a compilation of the current arrivals and departures in all the concentration camps is sent to you for your information. It discloses that out of 136,000 arrivals about 70,000 died. With such a high rate of death the number of prisoners can never be brought up to the figure as has been ordered by the Reich Leader SS."

Grist for the mill of death came from everywhere, not excluding the Reich Ministry of Justice whose chief decreed that all prisoners under protective arrest, Jews, gypsies, Russians, Ukrainians and Poles with more than 3 year sentences; and Czechs and Germans with more than 8 year sentences, were to be sent to concentration camps to be, "worked to death." This Minister of Justice declared in September 1942:

"With a view to freeing the German people of Poles, Russians, Jews, and gypsies, and with a view of making the Eastern territories which have been incorporated into the Reich available for settlements for German nationals, I intend to turn over criminal proceedings against Poles, Russians, Jews, and gypsies to the Reich Leader SS. In so doing I base myself on the prin-

principle that the administration of justice can only make a small contribution to the extermination of members of these peoples." (XII/32, Doc. NO-558.)

By 21 December 1942 the Justice Ministry had turned over 12,000 of these prisoners; subordinate agencies had received orders to transfer an additional 35,000. The SS did not fail its assignment. Pohl reported that the death rate of prisoners sent by the Justice Ministry was an average of 30 percent per year and even higher at Mauthausen. Out of 10,191 such prisoners received in Mauthausen, 3,306 had died by the first of the year. (XII/34, Doc. NO-1265.)

Although the fullest utilization of concentration camp labor for commercial purposes did not reach its peak until 1941 and 1942, the inmates had long before been recognized as profitable material. As early as 20 April 1939 we find the Administrative and Economic Main Office of the Reich Leader SS declaring that:

"Since the SS is extending its activity more and more to the field of private economy, we must act in accordance with this realization. (II/5, Doc. NO-542.)

"It would perhaps be a good thing to illustrate on the occasion of a conference with figures to camp commandants what financial loss the SS will suffer if a regular supply of prisoners is not kept up." (II/9, Doc. NO-542.)

As far back as 8 May 1940 it was decided that a special department would be set up for the operation of quarries in Norway. (II/27, Doc. NO-1045.)

By April 1942 the prisoners had fallen into such a pattern of slavery that the SS administration no longer regarded them as free human beings, but as chattels belonging to the Reich permanently. That they were merely war detainees did not enter the minds of the SS hierarchy. Thus plans were made as to how these prisoners should be used even *after* the war ended. "The mobilization of all prisoners who are fit for work, for purposes of the war now, and for purposes of construction in the forthcoming peace, come to the foreground more and more." (II/67, Doc. R-129.)

With the whole power of the Reich, especially its police forces, behind the SS commercial enterprises, it was not difficult to take over any establishment that seemed attractive. Thus an SS Sturm-bannfuhrer reported in October 1944 that he had found a desirable basalt factory in Roemhild near Hildburghausen. He stated that he could arrange for taking over the plant because the mayor (who was an Ostuf., of the General SS) was willing to transfer the work. He declared further that, although he might be confronted with some difficulties, they were not insurmountable. "I hope to

overcome all difficulties particularly because (1) more important orders are on hand; (2) *the Gestapo will back up the matter 100 percent.*" (XVI/52, Doc. NO-1031.)

On 14 February 1944, Goering asked Himmler to place at his disposal, "as great a number of concentration camp convicts as possible for air armament as this kind of manpower proved to be very useful according to previous experience."

In view of the ever-increasing effectiveness of the Allied air power, Germany was forced to go underground with its airplane factories. "For work of this kind concentration camp convicts can be especially well concentrated at work and in the camp."

Himmler acknowledged this letter enthusiastically, advising that already 36,000 prisoners were being used in the air force industry with a contemplated increase to 90,000 prisoners. "The use of the prisoners has proved its brilliancy here." With regard to the transfer of air industry factories underground, Himmler states that 100,000 additional prisoners are required and then, like one rubbing Aladdin's lamp, he adds: "The plans for this task are already in full progress."

A fairly good idea of conditions at a concentration camp work center (V-weapons were being constructed here) was conveyed by the witness Karl Kahr:

"When I arrived in Dora in January 1944, I was horrified by the living conditions which I saw there and which prevailed for the inmates. In no way had any people been worried about the billets, nor did they worry about their clothing which they needed for their hard work, nor did they take care of any sanitary installations. Out of the 10,000 inmates at the time at least 7,000 of them had to live under the earth; that is in these specially built tunnels. Only 3,000 of them had the possibility to see the sunlight in the camp and to live in barracks. In addition, it so happened that the inmates during the 12-hour shift had to work in the tunnels and had to spend their leisure time in a tunnel nearby. For the sick inmates, while I was there, there were only four barracks for the sick which had the very least equipment that could be expected so that due to the great, large number of sick inmates it was almost impossible to take care of these inmates. Furthermore, due to bad clothing and bad shoes they had great injuries which occurred while they were working on these pointed stones; and the inmates were very badly fed. As they were very badly fed, they did not have the good resistance to these diseases so that the infections on their legs were at a horrible extent. I myself was a doctor. During my activities prior to that I had never seen such infections." (*Tr. p. 177.*)

As a doctor in the SS, the witness had the opportunity to complain in behalf of the inmates about these vigorous working conditions. He was informed that it did not matter how many inmates died, the important thing was to get the construction project completed. It is thus not surprising that the death rate for one month (January 1944) was 8 percent. (*Tr. p. 185.*)

"These inmates died often of the diseases they brought along from other camps. In other words, the lung tuberculosis, which occurred very often. Furthermore, there were organic diseases which resulted from infections with typhus and spotted fever in other camps. And also, I myself saw inmates who organically speaking had no signs of disease but could often have died of malnutrition, because their bodies already showed certain signs of malnutrition." (*Tr. p. 180.*)

Dr. Bernhard Lauber, a Polish Jewish physician, also an inmate in Ohrdruf, testified that about 4,000 prisoners were employed in the underground factories. He stated that hospital facilities were nonexistent. Those who became ill had to be accommodated in stables.

"There were no beds in those stables, it was a concrete floor. The sick people lay on the bare floor, without straw, without covers, and blankets; no drugs; and these ill people were given 50 percent of the food which we were given. They were so ill that they couldn't eat very well. They lay there, with open wounds, and they were not dressed; and they died there by the thousands." (*Tr. p. 291.*)

Each day as the prisoners marched away from the roll call, 10 to 12 were left dead on the parade ground. (*Tr. p. 292.*)

If the concentration camp inmates had been made to work for the Reich directly without compensation or reward, that in itself would have been unjust, but it was worse than that. They were hired out to private industries which paid for their work, not to the prisoners but to the Reich. Thus, the inmates became beasts of burden to be hired out at the will of their masters. The employing industries deducted from the amount paid for their hire, two-fifths the wages of remuneration to cover the housing and food furnished the prisoners, but even Pohl regarded these services as inadequate:

"In view of the inadequate way in which the services were rendered, a deduction of two-fifths must be considered much too high, so that the labor of the prisoners for private industry was very cheap." (*XIII/127, Doc. NO-382.*)

Industries which did not have the benefit of concentration camp labor complained that the SS industries owed their competitive capability to their cheap or even free-of-charge labor. In the

attempt to meet these arguments the SS prepared a paper pointing out that:

“For nutritive and psychological reasons the productivity of a prisoner is always considerably lower than that of a worker of the free industry.” (*XV/76, Doc. NO-510.*)

Then, in order to silence the free industries it was seriously proposed to increase the pay of the workers which is simply tragically amusing when one realizes this increase of pay had nothing to do with the worker. He got no pay anyway. It simply meant that the SS or the Reich would become a little richer from the sweats of its foreign slaves.

The I.G. Farben Industry, the largest employer of concentration camp labor, was granted priority over all other industries. At its Bunawerke establishment it employed approximately 40,000 foreign workers and concentration camp inmates. The second largest employer of concentration camp labor was the Hermann Goering Works which drew its inmates from Auschwitz, Buchenwald, and Oranienburg. The German Oil and Research Company employed 10,000 inmates taken from Dachau. The Messerschmitt concern tapped Dachau, Flossenbuerg, and Mauthausen for its needs of inmate labor. The quarry at Mauthausen was operated by Messerschmitt. The camp at Oranienburg, furnishing labor for the clay pits and the brickworks, was equipped to house 25,000 inmates. The Krupp plant at Auschwitz engaged in the production of fuses, employed concentration camp labor. Approximately 250,000 prisoners were used as laborers in the armament industries, in labor camps and in Aussenlager. Construction projects and armament projects employed an additional approximate 100,000.

Wages for these inmates were fixed by the German Labor Front, but as previously indicated none of the money went to the inmates. It was paid to the Reich through department [division] D. From April 1944 to February 1945 these payments amounted to a total of approximately 120 million RM.

In addition to working in labor camps, armament works and other immobile industries, concentration camp inmates were often taken on travelling labor assignments. Under orders of Pohl, SS construction brigades of 2,500 prisoners were made up for the construction of fortifications and supply lines for the V-1 and V-2 program in the west. A report on this operation, after speaking of the good accommodations and food afforded the men as they travelled from place to place, gives itself away with the statement:

“The footwear can be described as especially bad. Some of

the prisoners have to go barefoot on account of nonexistent footwear. In spite of continuous repairs this situation cannot be remedied." (XXI/7, Doc. NO-2615.)

Dr. Werner Greunuss, speaking of a construction project at labor camp III at Buchenwald, declared that in the examination of 10,000 prisoners here he found one-third totally unfit for work or in need of special care. (XXI/22, 23, Doc. NO-21.)

Then there was the punitive detail where the workers' life could be forfeited for the slightest infraction or supposed infraction of rules. Witness Jerzy Bielski testified on the punitive company (made up of 150 inmates) to which he belonged in Auschwitz.

"All the people there did not get sufficient food. They were beaten during their work, and many of them were shot. On the average, ten prisoners were killed every day, and ten to twenty who had lost consciousness and who were otherwise sick were returned to the camp. The work had to be carried out at double time, and the work had to be achieved at such a speed that nobody was able to carry it out. Whenever we were unable to run as fast as we were told to, or whenever we showed that we did not have sufficient strength to push the carts, then we were always beaten by the foremen and the Kapos, and people were shot by the SS guards." (Tr. p. 305.)

Then there was the gravel pit where out of 300 workers, 10 to 20 dead were carried back each day. (Tr. p. 306.)

Witness Albert Henry Kruse described conditions in the clay pits at Neuengamme:

"I would have to start at the early morning. As soon as the working commandos were assigned new people the working commando started off for the day. These two thousand people were then driven on the double, falling over each other, until they reached their working place. The Kapos and SS people had great fun to beat these people while running after them, while there was confusion.

"Then the people were assigned to various working commandos." (Tr. p. 450.)

At 11:30 the inmates suspended for lunch.

"The food had to be eaten outside in the field regardless of whether it was winter or summer. It often occurred that Kapos, those were the foremen, in case the inmate should not hold the plate correctly, would kick it out of his hand so that he would have to spend the whole day without eating anything. If an inmate collapsed while he was working, which was absolutely natural due to the undernourishment there and it was a daily occurrence, then he was thrown into a closed in area, closed in

by barbed wire, in which daily there were between ten and thirty inmates, and they had to lie there on the bare earth regardless of whether it was winter or summer." (*Tr. p. 451.*)

The monthly death rate in Neuengamme amounted to between 8 and 12 percent. During the period that the Clinker Works were being constructed, the death rate climbed to 20 percent, particularly during the winter months. In the month of January 1943, 1,200 inmates died. (*Tr. p. 453.*)

Witness Herbert Engler, who testified to working and living conditions at the Sachsenhausen concentration camp, was asked if the food served the workers was sufficient. He replied:

"Food, if you consider this happy word, was not sufficient.

"I have seen especially tall and strong men who usually need more food than others, that is small men, that these men very quickly reached a physical condition which made it necessary that they be sent to the concentration camp hospital and a part of them died and that was concerned mainly with the water, because the food, the prison food which was given there was mainly soup; there was a lack of food and water, was formed, if I may call it that as a layman, and the main part of the inmates died because of that reason." (*Tr. p. 664.*)

When the pangs of hunger became unbearable, inmates attempted to add to the camp ration by eating grass, digging up beets or raw potatoes or, "whatever looked like food." (*Tr. p. 665.*)

Where hospitalization was permitted, inmates often died because of wrong treatment by the camp doctors and inexperienced camp male nurses. (*Tr. p. 666.*)

As the result of heavy work, grossly disproportionate to the amount of food received, predisposing illness, 800 to 900 inmates died per month at Sachsenhausen. (*Tr. p. 667.*)

The SS were not entirely without some consideration for the inmates when hatred could be sheathed for a moment and thought given to obtaining the most in work from each prisoner. Prisoners of German nationality were even allowed to ask permission to let their hair grow. Workers who achieved peak performance were allowed to visit the brothel, "as a special reward." For this visit the prisoner paid 2 RM, .50 of which went to the brothel personnel and 1.50 RM to the Reich. (*XXII/16.*) Even bonus coupons were awarded for top production. The theory of these coupons was that they could be exchanged at the canteen or PX for certain food items or tobacco, but in 1944 and 1945, "it was scarcely possible to buy anything at all which was of interest to an inmate's

feeding—which was, after all, the most important thing to him.”
(*Tr. p. 707.*)

Those who were placed in the punitive detail at Sachsenhausen carried stones for from 12 to 14 hours a day.

“In the Clinker SK, the punitive company, as I have already told the Tribunal this morning, the inmates could not survive as a general rule a period of four weeks. In order to give you the figures of the death rate, I shall have to say that during only one month, of 65 men who composed the Clinker punitive company, 19 inmates died. They died because they went through the guard chain, preferring suicide to the cruel treatment in the Clinker punitive company.” (*Tr. pp. 714, 715.*)

The witness Eugen Kogon, whom we have already mentioned, explained that at Buchenwald his work as a digger was so exhausting that he is alive today only because he was able to bribe his Kapo to turn his head from time to time so that the witness might seize fragmentary rest periods.

At camp Dora, V-weapons were manufactured in the subterranean caverns. They were described by witness Josef Ackermann as so large that two freight trains could drive through them with still a big highway with other railroad installations there. Here the prisoners worked and slept. Thirty-five hundred lived in a big stone chamber.

“The beds were always filled. When one shift had to get up, the other shift had to return from work and take their places, and they would go into that which was filled with lice. It consisted of an old straw bag which stank terribly, and an old blanket which was suited for horses. The air in the mine was so full of calcium that it was hard to breathe.” (*Tr. p. 948.*)

Working for 12 hours and fed insufficiently, many collapsed out of simple exhaustion.

“Whenever I walked through the mines I always had to step and walk over corpses. They were lying just on the way. Many of these prisoners committed suicide by throwing themselves down at the mines or by otherwise committing suicide; or they took a rope and hanged themselves to the next post.”
(*Tr. p. 948.*)

The death rate constantly increased. In February 1945, with 50,000 workers, 3,500 died. In March 1945, 5,000 died, that is to say, 10 percent of the total population.

The completely inadequate rest allowed the workers at Dora helped to swell the death rate. As a medical clerk, the witness Ackermann prepared a memorandum for Dr. Lolling, physician in charge of concentration camps, pointing out that by reason of working 12 hours and then being compelled to walk to their

barracks, as well as being required to stand long roll calls, the prisoners did not reach their blocks until 11:30 at night. After getting something to eat, they thus did not get to bed until 12:30.

"In summer time they were again waked up at 2:30 in the morning, so that these people only were able to sleep for 1½ or 2 hours. And this of course resulted in their complete exhaustion. The inferior food alone would not give any explanation for the fact that the corpses of all prisoners consisted of skin and bones. However, with this exhaustion they were unable to take any food, and if they had been given any food it still would not have been of any use." (*Tr. p. 951.*)

MEDICAL EXPERIMENTS

During the war Heinrich Himmler made the startling discovery that German soldiers succumbed to high altitude, pestilence, poisonous food, sea water, and freezing just like all other human beings. He resolved to do something about this and instructed his master scientists to find the mysterious compound which would prolong life, despite war's circumstance.

Where Ponce de Leon failed in his quest for unending youth, the Nazi scientists began, but experimentation was required. Tests had already been made with monkeys, but as their reaction did not entirely coincide with that of human beings, it was necessary to work with live men who could of course die during the test. It was only through the concentration camps that the human experimental material could be obtained.

As inmates refused to offer themselves as human guinea pigs, Himmler made participation in the experiments compulsory. Here and there in all the documents one finds some vague suggestions that only prisoners condemned to death were used in the dangerous tests. But the evidence in no manner whatsoever exhibits that only death-condemned prisoners were used. And if a doomed man was killed through an experiment, there was nothing to show that any judicial tribunal worthy of the name, passed such final judgment upon him.

Between February and July 1942 high altitude or low pressure experiments were conducted on approximately 200 inmates at Dachau. Between 70 and 80 of these tests resulted fatally. One patient who observed from his window the experiment in the pressure chamber was taken out by Rascher, put into the chamber and killed. (*VIII/32, Doc. NO-911.*)

These high altitude experiments were followed by cold water freezing experiments in which 80 out of 300 subjects died. Other

experiments in the battle against winter involved the outdoor exposure of naked victims for from 8 to 14 hours. After this mass refrigeration of human life the master scientists made the astounding observation that frozen people derive some benefit from a hot bath. The weather was apparently very accommodating to the experimenting doctor, Dr. Rascher, who reported to Himmler under date of April 4, 1943:

"The question of saving people frozen in the open air has in the meantime been cleared up, since, *thank goodness*, there was once again a period of heavy frost weather in Dachau. Certain people were in the open air for 14 hours at -6° C., reached an internal temperature of 25° C., with peripheral freezings, and could *all* be saved by a hot bath." (Emphasis supplied.) (VII/123, Doc. NO-292.)

Himmler recommended to Dr. Rascher that women be used in the resuscitation experiment. The theory was advanced that a naked woman fondling a man whose blood had coagulated to sub-zero temperatures could restore normal warmth. It was intended that Jews and gypsies be assigned to this operation, but Dr. Rascher reported to Himmler that among these women he found a girl with unquestionable Nordic racial characteristics. It developed that she had volunteered as a prostitute at the concentration camp brothel in order to avoid the concentration camp life itself. While mass killing had never apparently disturbed this arch murderer, this incident touched him deeply and he said:

"It hurts my racial feelings to expose a girl as a prostitute, to racially inferior concentration camp elements, who has the appearance of a pure Nordic and who could perhaps by assignment of proper work be put on the right road." (VII/101, Doc. NO-323.)

Dr. Rascher and his fellow scientists were searching for a blood coagulant that would seal up wounds and staunch the flow of the life's fluid, a highly commendable undertaking. However, the methods employed to achieve this desideratum did not quite measure up to the idealism of the quest. With the thousands of soldiers being wounded every day on countless battlefields, the criminal Ponce de Leon still found it necessary to shoot innocent prisoners at Dachau in order to test the various drugs they had concocted. (VII/1, Doc. NO-065.)

Perhaps there is no physical torture so well covered in world literature as human thirst. The cries of the hapless voyager, whether on the sea of water, or ocean of sand, for potable water that cannot be found, have touched the emotions of every reading person. Libraries have been written on this subject. The demonstrated data on physical, mental, emotional, and spiritual de-

terioration of the pitiful traveller deprived of drink are known to the scientists of every civilized country. However, the so-called scientists in the concentration camps, feeling themselves rich with life material, conducted experiments on human thirst, which not only did not solve the age old problem on how to survive without fresh water, but gratuitously inflicted pain, agony, and death on their innocent victims.

In the summer of 1944 a Dr. Beiglboeck at the Dachau concentration camp carried out experiments in which a large number of prisoners were required to drink sea water in order to determine how long they could stand it. An eye-witness, describing the agony of the victims, related how in their torment, they wildly threw themselves on the mops and rags used by hospital attendants and sucked the dirty water out of them in the urge to alleviate the thirst which was driving them into insanity. (*VIII/31, Doc. NO-911.*)

This Dr. Beiglboeck also conducted experiments with starvation diets, salt diets, and blood lettings. "It was Beiglboeck's practice to send these prisoners undermined by the experiments to the regular infirmary in order to conceal the number of deaths among the experimental subjects."

Prisoners working in and around the experimental station stated that the doctors were proud National Socialists who had the confidence of Himmler's immediate staff because, "the additional sufferings of the patients were so obvious as not to be reconcilable with a physician's conscience." (*VIII/32, Doc. NO-911.*)

Experiments with malaria were frequent. At Dachau the experimental subjects (in many instances, priests) were placed in a small room where each was compelled to hold a box full of mosquitoes. As a result of the malaria experiments there were 30 deaths and as a result of complications 300 to 400 more died. Forty-nine patients died outside the malarial station. (*VIII/3, Doc. NO-856.*)

Experiments on the causes of jaundice epidemic resulted in various deaths. (*VIII/34, Doc. NO-371.*)

At Ravensbrueck experiments were conducted on the effectiveness of sulfanilamide. Incisions were made in the leg of the victims and gangrenous bacteria cultures were inserted. The wound was then closed and the leg encased in a cast. But since the infections which resulted were not typical of battlefield gangrene infections, it was decided to add tiny fragments of wood shavings to the bacteria cultures which would simulate the crust of dirt customarily found in battlefield wounds. (*VIII/43, Doc. NO-228.*)

"Before I could complete my report on the procedures used and the results obtained, (Dr. Grawitz) brusquely interrupted

me and observed that the conditions under which the experiments were performed did not sufficiently resemble conditions prevailing at the front. He asked me literally, 'How many deaths have there been?' and when I reported that there had not been any, he stated that that confirmed his assumption that the experiments had not been carried in accordance with his directions." (VIII/44, Doc. NO-228.)

New experiments were initiated:

"The incisions were made on the lower part of the leg only in all series to make an amputation possible. It was not made on the upper thigh because then no area for amputation would remain. However, in the series the inflammation was so rapid there was no remedy and no amputations were made." (VIII/46, Doc. NO-228.)

Dr. Zofia Maczka, a former political prisoner in Ravensbrueck and now living in Stockholm, prepared an affidavit for the British Consulate in which she related her experiences at Ravensbrueck:

"The operations were to be carried out for scientific purposes, but they had nothing to do with science. They were carried out under horrible conditions. The doctors and the assisting personnel were not trained properly medically. Conditions were neither aseptic nor hygienic. After operations the patients were left in shocking rooms without medical help, without nursing, or supervision. The dressings were made according to the whim of the doctors with unsterilized instruments and compresses. Dr. Rosenthal who did most of the dressings, excelled himself in sadism. In summer of 1943 the last operations were carried out in the 'bunker'. 'Bunker' is the name of the horrible prison in the camp. The victims were taken there because they resisted and there in the cell, their dirty legs were operated on. This was the 'scientific atmosphere' in which the 'scientific' operations were carried out." (VIII/56, 57, Doc. NO-861.)

Poles, political prospective prisoners, 74 in number, were chosen as subjects. The youngest was 16 years of age, the oldest 48 years. Dr. Zofia Maczka described the procedure:

"The soft part of the calf of the legs was opened and the open wounds were infected with bacteria which were introduced into the wounds. The following were used: staphylococcus aureus, oedema malignum (clostridium oedematis maligni), gas gangrene bacillus (Gasbrandbacillus) (clostridium perfringens) and tetanus. Weronika Kraska was infected with tetanus. She died after a few days. Kazimiera Kurowska was infected with gas gangrene bacillus; she died after a few days. The following were infected with oedema malignum: Aniela Lefanowicz, Zofia Kiecol, Alfreda Prus, and Maria Kusmierczuk. The

first three died after a few days: Maria Kusmierczuk got over the infection. She was lying ill for more than a year and became a cripple, but she lives, and is a living evidence of the experiments. Mostly pyogene stimulants were employed. The wounds were stitched after the infection and serious illness began. Many of the patients were ill for months and almost all of them became cripples." (*VIII/57, Doc. NO-861.*)

Many bone transplantation experiments were conducted. Practically all of the patients became permanent cripples. In addition they suffered the torturous fear they might be shot in order not to be living evidence of what had been done to them. (*VIII/59, Doc. NO-861.*)

This mania for experimentation was carried to the point where legs at the hip joint were removed from psychopathic patients to determine, it is assumed, if the amputation of legs might affect the mental condition of the patient. (*VIII/63, Doc. NO-861.*)

One very curious phase of this experimentation business was its secrecy. If the objective of medical experimentation in itself was just and the means honorable, it is difficult to understand why the procedure should be clothed in mystery except that the perpetrators were fully conscious of the criminality of their acts. Thus we find Pohl reproaching Dr. Rascher for writing a magazine article on one experiment:

"I deem it necessary that in future publications you avoid carefully everything which could induce people who are familiar with the subject (and one must always consider that such people exist) to the conclusion that experiments on prisoners are involved." (*VIII/70, Doc. NO-615.*)

At Natzweiler between 150 and 200 prisoners were infected with typhus viruses, naturally without their consent, and without their having been at any time sentenced to such experiment. Fifty died from the experiment. (*IX/29, Doc. NO-2466.*)

Although neither side in World War II used poison gas, its employment was always a threatened possibility, and in anticipation of its use the concentration camp scientists experimented to ascertain the best treatment for wounds caused by Lost, commonly known as mustard gas. Inmates of the Sachsenhausen concentration camp were subjected to wounding in various parts of the body and then the wounds were infected with Lost. There seems to be no record of the results of this experiment except the usual one that, "some of the prisoners died as a result." (*IX/39, Doc. NO-372.*)

One searches in vain for a document which proclaims that as a result of all this experimentation there came to light—not a startling scientific discovery—but even a simple improvement in

any normally prescribed treatment for a peace time ailment or a war time injury.

An ex-Buchenwald inmate described various types of poison gas experiments. In one experiment a certain fluid was dropped on the right and left forearm of the subject. After 24 hours serious symptoms of burning appeared. Seven out of thirty subjects died. Another experiment involved placing the subjects in a gas chamber where they were required to inhale outpouring gas. Rendered unconscious, attempts were then made to revive patients through artificial respiration. In most cases the attempts failed. The dead bodies were then dissected. Even in the manner the victims died, the experimenters were able to find a certain satisfaction. One Professor Hirt, after such a fatal experiment, shook hands with the practicing physician and said: "We may congratulate ourselves that our experiments turned out so well." (*IX/48, Doc. NO-590.*)

About 1,000 inmates were taken from Block 46 at Buchenwald for the typhus experiments. One-hundred fifty-five of these died. (*Tr. p. 737.*)

A certain Dr. Ding-Schuler, whose diary on experiments was a subject of much discussion at the trial, conducted various experiments with spotted fever. Out of the 39 subjects there were 21 fatalities. (*Tr. p. 913.*)

One inmate died under certain circumstances which baffled the experimenters. In order to find out what kind of poison and how much of it had been administered to the deceased, 4 Russian prisoners of war were given various doses without their knowledge. Testifying on this subject witness Kogon said:

"When two of the Russian prisoners of war suffered only a collapse and two were not dead, all four of them were taken to the crematorium, and there they were hanged after an hour.

"Q. Why did they hang them; do you know?"

"A. No. I do not know the reason. I assume as the whole thing was an SS trial and very strange—I think they wanted to get rid of the living witnesses." (*Tr. p. 742.*)

Testing the effect of incendiary bombs, the contents of sulphur bombs were poured on the arms of various prisoners and then the affected area set on fire. An attempt was made to extinguish the fire with certain drugs the scientists had manufactured. The wounds caused by these burnings went as deep as $1\frac{1}{4}$ to $1\frac{1}{2}$ centimeters. (*Tr. p. 747.*)

Between autumn of 1942 and the summer of 1943, 500 inmates at Buchenwald, Block 46, were experimented on as follows:

"One group of victims were first vaccinated with the spotted fever vaccine and then infected with the spotted fever virus.

In order to contrast the effectiveness of the vaccine another group of inmates were merely infected with the spotted fever virus without any previous vaccination. During this time about 10 percent of the total number of the inmates used died as a result." (X/124, Doc. NO-429.)

A chemist, Paul Bennart, who was liberated from the Nordhausen concentration camp in April 1945, declared that while at Buchenwald he knew of experiments with typhus serums. From 300 to 400 prisoners were involved in these experiments which lasted two or three months, and eventually all of them died. (XI/83, Doc. 222-PS.)

EUTHANASIA PROGRAM

On 1 September 1939, Hitler sent his armies smashing into Poland fully aware that he was in every probability precipitating a world war. This awareness informed him of the blood that was to flow, not only from his adversaries, but from the bodies of his own soldiers as well. Battle injuries and disease would incapacitate a substantial portion of his military; hospitals and doctors, throughout Germany, would be at a premium. Now throughout Germany, aged and incurably insane, as well as deformed children, were occupying hospitals desperately to be needed for his fighting men. These "useless eaters" were in the way, they were an impediment in the military program, and, in addition, an embarrassment to Hitler's theory of the master race. Only those who could strengthen the Nordic stock and the Third Reich were worthy of life. Hence Hitler decreed that these "useless eaters" be killed. This project of wholesale murder was given the euphemistic title, "Euthanasia Program", but in the profession it was known as 14 f 13.

The systematic murder proclaimed by 14 f 13 was achieved through a simple procedure. A commission of three physicians visited the various hospitals, institutions, and concentration camps to examine patients on whom reports had already been received as to their adaptability to the death program. The examinations performed, however, were more ritualistic than real, more perfunctory than fact-finding. Dr. Mennecke, a member of this commission, testified at Nuernberg in Military Tribunal I as follows:

"Q. Doctor, were all of the concentration camp inmates selected, actually insane?

"A. No.

"Q. Will you explain your answer please?

"A. By insanity we mean a disease which shows characteristic interferences with the mental activity which I will not describe

but I will call them characteristics. That is what we mean by insanity. That condition, in the majority of cases of inmates in the concentration camps, was not true.

“Q. Were any inmates selected only for the reason that they were unable to work?

“A. That is possible.

“Q. Were people selected who had diseases other than those of the mind, such as tuberculosis?

“A. Yes. Such people were also included.” (*X/74, 75, Doc. NO-2635.*)

Writing to his wife this, Dr. Mennecke confided that the commission itself considered the examinations as “merely a theoretical work.”

“Afterwards we continued our examinations until about 16 o'clock, I myself examined 105 patients, Mueller 78 patients, so that finally a total of 183 reports were ready as a first portion. As second portion, a total of 1,200 Jews followed, all of whom do not need to be ‘examined’, but where it is sufficient, to take the reason for their arrest from the files (often very voluminous!) and to transfer it to the reports. Therefore it is merely a theoretical work.” (*X/57, Doc. NO-907.*)

Ferdinand Roemhild, testifying in the “Medical Case” in Court No. 1, declared that in the summer of 1941 a delegation arrived at Buchenwald from the Reich Criminal Office and medically selected inmates under Action 14 f 13. The selection was accomplished by, “cynical remarks.” The persons selected were loaded aboard a transport and sent to an unknown destination. “A few hours after their departure personal belongings came back, among them teeth.” (*X/127, Doc. NO-2636.*)

In the autumn of 1941 an investigation was conducted of all Jews in that camp. Those that were unfit for labor were sought out and later sent away. Still later the witness saw reports to the effect that these Jews had died a “natural death.” Six hundred persons were involved in the list. (*X/127, Doc. NO-2636.*)

Of those reputedly suffering from incurable tuberculosis, 500 were killed, but the witness said that the “largest amount of these people were only undernourished, and in better living conditions could have been saved without doubt.” (*X/129, Doc. NO-2636.*)

The factor which determined death was not incurability but an inability to work! A communication from department [division] D of WVHA to the commandants of the concentration camps called attention to a report from one concentration camp in which it was said that 42 to 51 inmates selected for death became, “fit for work again.” The communication then scolds the commandants: “This shows that the selection of these inmates is not being ef-

fects in compliance with the rules laid down. Only those inmates whose correspondence to the conditions laid down and this is the most important thing, those who are no longer fit for work, are to be brought before the examining commission." (X/40, Doc. 1151-PS.)

Further an order issued 27 April 1943 declared that if not killed, "bed-ridden patients are to be given suitable work which can also be done in bed."

The operation of the extermination program was described by one witness in Buchenwald as follows:

"They sat down on a chair quietly, that is without emotion, near a light. A male nurse blocked the vein in the arm and Dr. Hoven injected the phenol quickly. Still during the injection they died in a momentary total cramp without any sign of other pain. The time between the beginning of the injection and the fatal result, I estimate at about one-half a second. For security reasons the rest of the dose was injected, although part of the injection would have been enough for the fatal result. (I estimate 5 cc.)

"The dead were carried into an adjoining room by the nurses—the time of my presence and witness I estimate at 10 minutes." (XXI/44, Doc. NO-257.)

The euthanasia program became an easy vehicle for the extermination of persons considered undesirable regardless of health. Jews had but little chance of survival once they appeared on the list of those to be examined. Dr. Mennecke testified:

"Well, it wasn't important to examine the Jews. The important fact was for the leadership of the program to find out what the reasons for their arrest were. The situation was that these Jews, in every case, were healthy, physically and mentally." (X/76, 77, Doc. NO-2635.)

This doctor also declared that it was made evident to him that if he did not go along with the murder project he might not only be subjected to imprisonment in a concentration camp himself, but, "even shooting was mentioned." (X/77, Doc. NO-2635.)

Waldemar Hoven, an SS physician, related that in 1941 the camp commandant at Buchenwald, informed of the euthanasia program through a secret communication from Himmler, ordered that all Jewish inmates of the Buchenwald concentration camp be included in the 14 f 13 operation. "In accordance with these orders 300 to 400 Jewish prisoners of different nationalities were sent to the euthanasia station at Bernburg for extermination." (X/125, Doc. NO-429.)

The selection of the patients for extermination was sometimes camouflaged with the announcement that they were to be taken

to another camp. One Walter Neff, a male nurse in a concentration camp related:

“Only when these invalids were taken away did we realize that it could not be a different living detail, because the people had to turn in their crutches and whatever else they had, and they were taken away by the hundreds. We could follow their route only as far as Linz, but the death reports which came in and their clothing which came back told us that the people had been liquidated.” (*X/131, Doc. NO-2637.*)

In these camps the doctor went through the ward and indicated casually this one and that one for invalid execution. Sometimes whole blocks were evacuated in one action without any distinction as to the state of health of the individual patients. The period between the listing and removal was usually about 6 weeks, and those who were on the list were examined once more, not by a doctor, but by a Gestapo official! When he signed the slip it amounted to a death sentence. (*X/131-134, Doc. NO-2637.*)

At times there was not even the slightest pretense of selection. The chiefs of certain wards were instructed to submit so many names:

“It was like this, Dr. Brachtel told me ‘there is an invalid action, from your tuberculosis ward, you will have to report at least 50 patients. If you do not do that the camp doctor will select them. You can imagine how many will be left then.’” (*X/135, 136, Doc. NO-2637.*)

These nurses were forced into the blood-freezing dilemma of having to select 50 names for killing, or by doing nothing, permitting a much larger massacre!

Friedrich Entress, the SS physician, stated that in May 1942 he first became acquainted with the euthanasia action. An order from Dr. Lolling, chief physician of all concentration camps, directed that euthanasia was to be applied to the incurable tubercular and mental patients and those permanently incapable of work. In the autumn of 1942 this order was extended to include sick patients whose cure and reconvalescence was unlikely within 4 weeks!! (*XXI/26, Doc. NO-2368.*)

It is to the great credit of the church in Germany that once they learned that such a monstrous program existed, protest was made. The Bishop of Limburg wrote to the Minister of Justice in 1941:

“About 8 kilometers from Limburg, in the little town of Hadamar, on a hill overlooking the town, there is an institution which had formerly served various purposes and of late had been used as a nursing home; this institution was renovated and furnished as a place in which, by consensus of opinion,

the above-mentioned euthanasia has been systematically practiced for months, approximately since February 1941. The fact has become known beyond the administrative district of Wiesbaden, because death certificates from a Registry Hadamar-Moenchberg are sent to the home communities. (Moenchberg is the name of this institution because it was a Franciscan monastery prior to its secularization in 1803.) Several times a week buses arrive in Hadamar with a considerable number of such victims. School children of the vicinity know this vehicle and say: "There comes the murderbox again." After the arrival of the vehicle, the citizens of Hadamar watch the smoke rise out of the chimney and are tortured with the ever-present thought of the miserable victims, especially when repulsive odors annoy them, depending on the direction of the wind * * *. All God-fearing men consider this destruction of helpless beings as crass injustice, and if anybody says that Germany cannot win the war, if there is yet a just God, these expressions are not the result of a lack of love of Fatherland but of a deep concern for our people. The population can not grasp that systematic actions are carried out which in accordance with paragraph 211 of the German Criminal Code are punishable with death. High authority as a moral concept has suffered a severe shock as a result of these happenings. The official notice that N.N. had died of a contagious disease and for that reason his body had to be burned, no longer finds credence, and such official notices which are no longer believed have further undermined the ethical value of the concept of authority." (*Doc. 615-PS.*)

However, this protest could not be strong enough to stop the merciless juggernaut of a Hitler-Himmler order from proceeding on its way, and thus by the time of the collapse, 275,000 people were killed in the euthanasia program throughout Germany and occupied countries. (*X/1, Doc. NO-2680.*)

STERILIZATION

Prior to, and actually during the period of the Jewish extermination program, there were some party leaders who sought another solution to their self-imposed problem on how to eliminate the Jew from Germany. Plans were considered for deporting Jews to faraway places, and one Dr. Hevelmann suggested the Island of Madagascar for this purpose. Such a project was actually drafted. (*X/8.*) Then as the need for manpower became more and more pressing, someone observed that it was bad economics to kill off work-producing units. The question then presented itself: How can the Jews be eliminated and yet their brawn be utilized?

How could they be killed and yet be kept alive to work? The answer was sterilization. If the Jews could be sterilized, they could be employed for profitable labor, and the race would still be extinct for the coming generations. It was a brilliant idea. SS Oberfuehrer Viktor Brack wrote Himmler under date of 23 June 1942:

"Among 10 millions of Jews, are in Europe, I figure at least 2-3 millions of men and women are fit enough for work. Considering the extraordinary difficulties of the labor problem present us with, I hold the view that these 2-3 millions should be specially selected and preserved. This can, however, only be done if at the same time they are rendered incapable to propagate." (*IX/84, Doc. NO-205.*)

Dr. Pokorny wrote to Himmler about research work being conducted in this field:

"If, on the basis of this research, it were possible to produce a drug which after a relatively short time, effects an imperceptible sterilization on human beings, then we would have a new powerful weapon at our disposal. The thought alone that the three million Bolsheviks, at present German prisoners, could be sterilized so that they could be used as laborers but be prevented from reproduction, opens the most far-reaching perspectives." (*IX/53, Doc. NO-035.*)

Now came the search for the effective sterilizing agent. A certain Madaus found that the sap of the Schweigrohr (*caladium seguinum*), when taken by mouth, or given as an injection, produced after a certain time permanent sterility. However, experimentation along this line bogged down when it was learned that Schweigrohr grew only in North America, and during the war could not be imported in adequate quantities. Attempts to grow the plant from seed cultivated in hothouses had been crowned with success, but the process was slow and the yield not sufficient to permit large-scale experimentation.

On 30 May 1942 Professor Clauberg, chief of the Gynecological Clinic, recommended to Himmler the establishment of certain clinics for the testing out of various plans of sterilization without operation. (*IX/68, Doc. NO-211.*) Himmler informed Clauberg that the Auschwitz concentration camp would be at his disposal for these experiments on, "human beings and animals." Brandt, Himmler's adjutant, urged that "by means of some fundamental experiment a method should be found which would lead to sterilization of the persons without their knowledge." (*IX/71, Doc. NO-216.*) Himmler then wanted to know of Clauberg, before he started his job, how long would it take to sterilize a thousand Jewesses? (*IX/72, Doc. NO-213.*) To this Clauberg replied:

“If my research continues to have the same results as up to now—and there is no reason to doubt that—then the moment is no longer far off when I can say: ‘By *one* adequately trained physician in *one* adequately equipped place with perhaps 10 assistants (the number of assistants in conformity with the desired acceleration) *most likely several hundred—if not even 1,000 per day.*’” (IX/76, Doc. NO-212.)

By means of X-ray, with two-valve installation, about 150 to 200 persons could be sterilized daily. With 20 such installations, it was estimated that somewhere from 300 to 400 could be sterilized in a day. (IX/82, Doc. NO-203.)

Dr. Clauberg developed a method for the sterilization of women by introducing an irritating solution into the body. After conducting widespread experiments on Jews and gypsies at the Auschwitz concentration camp, several thousand women were sterilized. (IX/52, Doc. NO-440.)

One of the many victims of sterilization appeared in Court and testified to the irreparable damage which had been done him by the Nazis as a result of this program.

“We had to take off our clothes immediately and we were put underneath a big machine, and we were sterilized there. They put two blocks between our legs, which were hot, and that is how we had to stay for approximately 15 to 20 minutes. After that we were all sent back to our block, and we were put to work immediately. A few of those who were with us were immediately transferred to the hospital because they simply couldn’t walk.” (Tr. p. 634.)

Two weeks later this witness was taken to the hospital and castrated. In Court he broke down and wept as he related his harrowing experience and, in a state of shame and mortification, asked the Tribunal not to divulge his name so that his only surviving relative, a sister, might not know what had happened to him. (Tr. p. 633.)

JEW S

No attempt will be made in this opinion to analyze or explain anti-Semitism. No one has yet answered Shylock’s lament:

“I am a Jew. Hath not a Jew eyes? Hath not a Jew hands, organs, dimensions, senses, affections, passions? Fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer as a Christian is? If you prick us, do we not bleed? If you tickle us, do we not laugh? If you poison us, do we not die?”

Anti-Semitism has existed in countries other than Germany, and with as little reason, but nowhere in the world and at no time in history has prejudice against a race been carried to the extremes of inhumanity and savagery witnessed during the Nazi regime in Germany and the countries which came under its despotic rule.

Point 4 of the Nazi Party program declared: "Only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently, no Jew can be a member of the race." It also provided that Jews cannot hold public office, and that they should be treated as foreigners. Upon accession to power the Nazi not only put these policies into effect, but introduced oppressive measures of a far more serious nature. These oppressions included confiscation of property, levying of huge indemnities, seizure of assets, lootings of Jewish business, destruction of Jewish synagogues, arresting of prominent Jewish businessmen. Jews were compelled to wear a yellow star on the breast and back. At no time was it charged that these persons had committed any crime. Their only offense was that they belonged to a certain race. Cruel and unjust as were the restrictions and penalties above indicated, they were mere child's play compared to what was yet to befall the Jew. He was first and last deprived of his freedom.

It was not only the German Jew who was sent to the concentration camps, wherever the German armies and influence penetrated, doom was written for the Jews. The Nazis set out to gather up the Jews of the world. "The following will be evacuated and transported to the East: Jews of French nationality, Jews who are citizens of the former Czechoslovakia (Now Bohemia, Moravia and Slovakia), Poland, Norway, Holland, Belgium, Luxembourg, Yugoslavia (Serbia and Croatia), Greece, Baltic States (Lithuania, Latvia, Estonia), Albania, Italy, and all stateless Jews (including those who have emigrated from Reich territories)." (*IV/92, 93, Doc. NO-1411.*)

The order to arrest all Jews in France provided that when a Jew was arrested all members of his family were to be arrested. And by family was meant, not only the immediate family of parents and children, but also married brothers and sisters and small children living in children's homes. Not one must escape. "In case not all members of the family are in the apartment, the apartment shall be occupied until the missing Jew returns." (*IV/90.*) When the arrests were made in cities, each house was to be carefully examined as to the number of Jewish inhabitants:

"In order to save work and petrol, the arrest parties must therefore be so prepared that not only one Jew is arrested,

but that in one action a whole district (in the country a whole village, or a whole block of houses) is purged." (IV/90, Doc. NO-1411.)

Upon arrest, the Jews were required to take with them all their money, jewelry, and other valuables for reasons which will be seen later. They were obliged to transport with them all their clothing, underwear, bed linen, etc., for purposes also to be noted in another part of the opinion. Keys to their houses were to be turned over to the arresting authorities. (IV/93, Doc. NO-1411.)

The transport of these Jews was to be arranged so that there was no possibility of flight. "If there is no other possibility of security measures, their hands have to be tied together by a long rope." (IV/94, Doc. NO-1411.)

So that no Jews should escape the dragnet, bonuses were offered to informers. The amount to be paid the informer would be taken from the money of the arrested Jew. "If a Jew, thus betrayed and apprehended, has no money other Jews will be called upon to pay the bonus." (IV/96, Doc. NO-1411.)

As negligible as was the effort to return the property of deceased concentration camp inmates to their relatives, there was an out and out prohibition against returning property of Polish and Jewish prisoners, as well as the effects of prisoners from former Soviet territories. Alive or dead, they were absolutely outside the pale. (V/94, Doc. NO-393.)

"The return of valuables taken into safe keeping from Jews in concentration camps who are citizens of foreign countries, or to the relatives of those who have died, is out of the question." (V/149, Doc. NO-1235.)

Not only was the return of valuables taken from deceased Jews prohibited, but in the Protectorate a vigorous injunction was laid down against the return of the ashes of deceased Jews and Czechoslovakians. Nothing must be left of the hated Jew. (VI/1, Doc. NO-1510.)

Special letters and reports on the death of Jews in concentration camps were expressly forbidden. (VI/3.) The decease of Jews was to be reported only in roster form. (V/14, Doc. NO-1246.)

The crimes and sins of the Jewish inmates, however, were duly catalogued. An idea of the nature of the offenses which landed Jews in concentration camps can be gathered from a few of the charges taken from the concentration camp files:

"Continuous race defilement by keeping her Jewish descent a secret and rendering the Hitler salute. * * * (X/113, Doc. NO-3060.)

"Incredible, impudent, and spiteful remarks toward Germans. On the train made acquaintance of soldiers coming from

the front, introduced herself as Jewess, gave them bread, swapped it for coffee and cocoa, then insulted the soldiers in the meanest possible way. (X/114.)

"Erna Sara Fritz, 23 Sep 04, divorced servant maid at Rumburg-South. Continues race defilement, fetched her Aryan lovers from the Café am Markt. Jewish full-blood prostitute. (X/115.)

"Committed race defilement with more than 60 Aryan men. (X/117.)

"Continuous race defilement: 'I detested Jewish men, therefore I looked for German lovers.' (X/117.)

"Committed race defilement with numerous German men, 1 bastard child. (X/118.)

"Impudent, challenging behavior toward members of the SS. (X/118.)

"Continuous race defilement. Camouflaged her Jewish descent by Catholicism, wore a Christian cross around her neck. (X/119.)

"Was seen at Lochwitz when she acquired from a farmer 1 pound of butter, 1 soda bottle full of cream, 1 bottle of milk (unskimmed milk). Stated it was compensation for work done for the farmer. (X/120.)

"Committed race defilement with more than 24 German men continuously." (X/120, Doc. NO-3060.)

The fact that the race defilement referred to could not of course have been committed without the active cooperation of the Aryan in no way mitigated the offense.

Every department of the Reich Government was polluted with Jewish hatred. Even the Ministry of Justice, presumably dedicated to safeguarding the rights of all peoples, prostituted itself to the point of officially declaring that criminal proceedings against the Jews (also the Russians, Poles, and gypsies) were to be turned over to the SS, the reason being, "that the administration of justice can only make a small contribution to the extermination of members of these peoples."

The Minister of Justice (!) then goes on to say that much better results can be accomplished by surrendering such persons to the police. "You can then take the necessary measures *unhampered by any legal evidence*. (XII/32, Doc. NO-558.)

On 3 December 1942, Himmler ordered the establishment of a diamond-cutting factory in the concentration camp at Herzogenbusch [Hertogenbosch], to which Jews had been deported from the Netherlands. The Aryan owners of the diamond establishments in the Netherlands asked that 80 Jewish polishers and 18 Jewish cutters be returned to the factory to complete the manu-

facture of half-finished articles. The request stated that the urgency of the decision was based on the fact that the Amsterdam diamond industry had practically come to a standstill by deportation of the Jews on 18 May.

The irony of this situation lies in the fact that, despite the ever-continued derogation of the Jews, the Nazis were compelled to admit that in many ways they were dependent upon those they despised. They hated the Jew but they made money on him. Propertyless Germans could, by getting free Jewish labor, develop into well-to-do proprietors and millionaires.

The road of sorrow for the Jew began with the deprivation of his citizenship rights, followed by the confiscation of his property, and then the humiliation of identification insignia which subjected him to degrading treatment publicly and privately. All this was but a prelude to the loss of his liberty, the forced confinement in a ghetto where he not only had no comforts and conveniences of decent living, but not even sufficient living space. Then came the concentration camp, with all its horrors of a living death, which later in itself became an actual death in an extermination camp. (*XIX/48, Doc. NO-519.*)

On 31 July 1941, Goering wrote SS Gruppenfuehrer Heydrich, charging him with making:

“All necessary preparations in regard to organizational and financial matters for bringing about a complete solution of the Jewish question in the German sphere of influence in Europe.” (*XVIII/7, Doc. 710-PS.*)

How this solution was developed will be amply demonstrated later on in this opinion, but it is obvious already that the solution did not include much consideration for the sanctity of human life. At Mauthausen an occasional Jew was killed just for the entertainment of guests:

“I avoided frequent visits to the concentration camps because it was customary—especially at Mauthausen-Gusen near Linz/Danube—to hang one or two prisoners in honor of the visitors. At Mauthausen it was customary to make Jewish workers work in a quarry at great altitude. After a while the SS on duty would say: ‘Pay attention, in a couple of minutes there will be an accident.’ And, indeed, one or two minutes later, some Jews were thrown from the cliff and fell dead at our feet. ‘Work accident’ was written in the files of the death.” (Hand-written statement by Kurt Gerstein, former SS Obersturmfuehrer.)

How the program of “complete solution” went into operation in Galicia is told by the report of SS Gruppenfuehrer Katzmann entrusted with the task. He first made every Jew wear a white

armlet bearing the Star of David in blue. Next he established forced labor camps and put 20,000 Jews working on military roads. All other Jews were registered and distributed for work by labor agencies. Then came the evacuation to concentration camps. However, many of the employers, quite satisfied with their Jewish workers, sought to retain them by issuing to them certificates of labor which called down the wrath of the SS, not on the employers but on the Jews. Thousands were charged with having forged their certificates and were "exposed to special treatment." (XVIII/103, Doc. L-18.)

The SS administration felt deeply offended because some German employers intervened in behalf of the Jews:

"Where Jews were arrested in the course of these checkups most of their employers thought it necessary to intervene in favor of the Jews. This often happened in a manner which had to be called deeply shameful." (XVIII/105, Doc. L-18.)

A German merchant working for the army in Lwow [Lvov] came in for special censure because he sent the following telegram to the SS Police Leader:

"The two certificates are craftsmen watchmakers; are resident in my future factory as night watchmen, and watchmakers in day time. I should not wish to be guilty of their death; after my return you can have them both, they do not run away. I beg of you." (XVIII/105, Doc. L-18.)

Those allowed to remain at work in the armament factories were housed in barracks, but relatives were prohibited from having accommodations even within the same block. Naturally the workers received no pay for this work. But money, nonetheless, was made on their services. The factories were required to pay to the SS and Police Leader of Galicia 5 zlotys per man and 4 zlotys per woman.

Then came the process of forced evacuation which the Jews, knowing what was in store for them, resisted.

General Katzmann [SS] reported:

"On the occasion of these actions, many more difficulties occurred owing to the fact that the Jews tried every means in order to dodge evacuation ('Aussiedlung'). Not only did they try to flee, but they concealed themselves in every imaginable corner, in pipes, chimneys, even in sewers, etc. They built barricades in passages of catacombs, in cellars enlarged to dugouts, in underground holes, in cunningly contrived hiding places, in attics, and sheds, within furniture, etc." (XVIII/111, Doc. L-18.)

The SS men drenched themselves with self-pity as they faced their task:

"The detachments continually were exposed to serious physical and mental strain. Again and again they had to overcome the nausea threatening them when they were compelled to enter the city and pestilential Jewish holes." (*XVIII/109, Doc. L-18.*)

A long series of photographs accompanied the report. The inscription of one read:

"Exposed tunnel to a dugout. This dugout was 3-stoned, equipped with sanitary arrangements and radio apparatus, and supplied with food at least 5 months. It was occupied by 125 Jews, among them one physician. The inmates were rendered harmless by concentrated (explosive) charges." (*XVIII/116, Doc. L-18.*)

Dissolving the ghetto in Lwow the SS men had to use brutal measures, the report says, in order to avoid losses on their side:

"We had to blow up or to burn down several houses. On this occasion the surprising fact arose that we were able to catch about 20,000 Jews instead of 12,000 Jews who had registered. We had to pull at least 3,000 Jewish corpses out of every kind of hiding places; they had committed suicide by taking poison." (*XVIII/117, Doc. L-18.*)

And then in a burst of pride the SS report concludes:

"Despite the extraordinary burden heaped upon every single SS police officer during these actions, mood and spirit of the men were extraordinarily good and praiseworthy from the first to the last day. Only thanks to the sense of duty of every single leader and man have we succeeded to get rid of the PLAGUE in so short a time." (*XVIII/118, Doc. L-18.*)

A report on the Lodz ghetto, dated 24 January 1944, declared casually that as of 11 January 1944 the ghetto contained 80,062 Jews, of which 500 died every month, or 6,000 per year. (*XIX/42, Doc. NO-519.*)

And yet, as much as the Reich odiated the Jews, in some instances they were treated well. This was not because the attitude of their oppressors had changed, but because the victors at times felt the hot wind of the vanquished blowing across their faces, and so an anchor to windward was cast in order to be safe in the event the fortunes of war were to turn. In these instances Jews were actually employed in offices, and not a few of the Aryans helped themselves to the favor of Jewesses. All these brought down the wrath of Kaltenbrunner who decreed:

"Jews and persons on a similar level may be employed only for manual labor. All private relations with Jews, Jewesses, and persons on the same level as well as all dealings with them exceeding the bounds of duty, are prohibited."

Himmler was furious with anyone who shielded a Jew, even if in doing so he was advancing the cause of the Reich:

“However, I have given directions to proceed unrelentingly against all those who believe that they have to oppose this step with so-called armament interest, but who in reality only wish to support the Jews and their business.” (XX/1, *Doc. NO-1611.*)

He gave orders that all Jews in the armament works were to be removed therefrom and sent to concentration camps. “Of course, there too, the Jews shall some day disappear in accordance with the Fuehrer’s wishes.” (!!)

On 5 October 1942 Himmler ordered that all concentration camps within the Reich territory were to be cleared of Jews. “All Jews within these concentration camps are therefore to be transferred to Auschwitz or Lublin.” What happened to the Jews sent to these two places is described later. (V/52, *Doc. 3677-PS.*)

TRANSPORTATION CASUALTIES

World War II, shattering every record for destruction, damage, turbulence, and death, eclipsed all known calculations also in the transportation of human freight. Never in any decade, or perhaps century, were there such mass migrations of human beings as occurred between 1939 and 1945. This vast movement was not limited to the armed forces. Civilian populations travelled as they never did before. Europe became a nomadic continent. Refugees, workers, slaves, laborers, captured peoples crossed frontiers and entered new horizons in a kaleidoscopic travelogue of misery and degradation that has no parallel even in fiction.

In describing the horrors experienced by the wretches transported to Auschwitz for extermination, the Polish investigation commission declared that they were subjected to such cruel suffering of body and soul that, “death in the steam chambers must have come almost as a welcome relief.” (XVIII/31, *Doc. 3311-PS.*)

Transport was the name given to movement whether the travel was by vehicle, or on foot. When travel was by land, as many as 130 persons were placed in cattle or freight cars, and in wintertime no extra clothing was allowed for the journey. In one group of 4,500 men and 500 women who moved from Monowitz to Nordhausen in January 1945, a trip lasting 8 days, only twice were the prisoners given food which consisted of one-half loaf of bread and 106 grams of meat. Space was so tight that the weak and the sick were smothered by their own comrades when they

sat down. Upon arrival at their destination, between 1,000 and 1,300 of the travellers were dead.

On 8 March 1945, 2,000 prisoners were taken from Nordhausen to Bolkenberg, a 10-day trip by wagon and foot for which they were given 3 days' food. Only 1,000 arrived alive. (*VI/89, Doc. 2222-PS.*)

The commandant of Buchenwald concentration camp, Hermann Pister, declared in an affidavit taken at Dachau on 3 February 1947:

"Transports from the East arrived most of the time in open boxcars, so that out of a transport with a total strength of 1,200 prisoners 300 arrived already dead in the Buchenwald CC, while the rest were merely skeletons. This happened frequently, and I found out that the transports were sometimes on the way for 4 weeks. In most cases, no advanced notice was given about these transports." (*III/122, Doc. NO-2327.*)

Gerhard Schiedlausky, physician at this same camp related:

"Each of these transports was met at the Buchenwald railway station by a group of personnel charged with the care of the inmates as well as by all available vehicles such as hand carts, carts and trucks to pick up the inmates who were no longer able to walk and to bring them to the bathing installations. Others were dragging along painfully supporting each other. There were cases when inmates who, to be bathed suddenly, collapsed and died under the shower. I remember one transport where among about 2,000 inmates, 460 of them were unloaded dead. The hospital chief reported to me about the fate of these arrivals and told me that within the next few days hundreds more of them died regularly. (*XXI/4, Doc. NO-2332.*)

Kurt Gerstein described the arrival of a 45-car train at Auschwitz [Belsec]. Of the 6,700 passengers who had boarded the train, 1,450 arrived already corpses. (*XVIII/49, Doc. 1553-PS.*)

It often happened that prisoners arrived in a debilitated condition but not yet too far gone to be saved. However, Gerhard Wiebeck declared in this connection:

"I had the impression that the SS men and those prisoners helping in unloading the other prisoners were anxious to see those who were still alive die, just to save themselves work." (*XXI/31, Doc. NO-2331.*)

Victor Abend testified that when he was transferred from Schoebnik to Auschwitz, he travelled in a freight car so crowded that it was practically impossible to lie down, that it carried no drinking water, nor did it have toilet facilities. The trip lasted 4 days during which time they were given no food.

The United States Congressional Committee, inspecting Dachau, found a train of cars which had been used to bring prisoners into the camp:

"These cars were an assortment of odd boxcars, some of which could be locked, and some were the coal-car type. In each of them the floor of the car was covered with dead, emaciated bodies. In some of the cars there were more than enough to cover the floors. In size, these cars were of the small European type, which, when used for the movement of troops, would never accommodate more than 40 men. Nevertheless, the army officials in charge of this camp advised us that there were 50 of these cars in this one train and that at least 100 of these civilian prisoners had been jammed into each car—locked in—and they had been on the road for several days without food or water, and that approximately 3,000 of them were dead upon arrival and most of the others were in a dying condition. We saw many dead bodies on the ground. These prisoners had apparently crawled out of the cars and had died on the ground." (VI/78, Doc. L-159.)

Then there was the unique protest on the part of concentration camp commandants that between 5 and 10 percent of the Russian prisoners of war sent in to be executed arrived already half dead or dead altogether. Further, that on the hike between the railroad station and the camp, many collapsed from sheer exhaustion. The commandants complained that this state of affairs was very embarrassing because "the civilian population takes notice of these happenings." (V/176, Doc. NO-391.)

EXTERMINATION OF JEWS

When one comes to write on this subject the ink runs heavy, the words falter, and a sadness akin to a hopeless resignation enters the soul. How can one write about a planned and calculated killing of a human race? It is a concept so completely fantastic and so devoid of sense that one simply does not want to hear about it and is inclined to turn a deaf ear to such arrant nonsense. Barbarous tribes in the wilds of South Pacific jungles have fallen upon other tribes and destroyed their every member; in America, Indian massacres have wiped out caravans and destroyed whole settlements and communities; but that an enlightened people in the 20th century should set out to exterminate, one by one, another enlightened people, not in battle, not by frenzied mobbing, but by calculated gassing, burning, shooting, poisoning is simply blood-curdling fiction, fit companion for H. G. Well's chimera on the invasion from Mars.

Adolf Eichmann, chief of the Jewish section of the Gestapo, estimated that the Hitler-Himmler extermination policy of the Jews resulted in the liquidation of 6,000,000 Jews, of which 4,000,000 were killed in extermination institutions. The murder of 6,000,000 human beings is entirely beyond the capacity of man's imagination and one instinctively refuses to believe. But the curtain of incredulity has lifted and the armor of incomprehensibility no longer protects. The evidence is in and what was utter fantasy and a mere macabre playing with numbers, is proved fact. The figure 6,000,000 is written in digits of blood, and no matter which way one turns their crimson horror is upon one.

Still, the cumulative shock of 6,000,000 dead is not felt unless one attends a murdering party of a small fraction of that ungraspable number. The great mass of the killings was done in gas chambers. Let an eye witness describe the operation of a gas chamber in Auschwitz:

"In 10 minutes the first train will arrive! And indeed, a few minutes later the first train came in from Lemberg [Lvov]. Forty-five cars, containing 6,700 persons; 1,450 of whom were already dead on their arrival. Behind the little barbed-wire openings, children, yellow, scared half to death, women, men. The train arrives: 200 Ukrainians, forced to do this work, open the doors, and drive all the people out of the coaches with leather whips. Then, through a huge loudspeaker instructions are given: to undress completely, also to give up false teeth and glasses—some in the barracks, others right in the open air—to tie one's shoes together with a little piece of string handed everyone by a small Jewish boy 4 years of age, hand in all valuables and money at the window marked 'Valuables', without bond, without receipt. Then the women and girls go to the hairdresser, who cuts off their hair in one or two strokes, after which it vanished into huge potato bags 'to be used for special submarine equipment, door mats, etc.', as the SS Unterscharfuehrer on duty told me. Then, the march begins: right and left, barbed wire, behind, two dozen Ukrainians with guns. Led by a young girl of striking beauty they approach. With Police Captain Wirth, I stand right before the death chambers. Completely naked they march by, men, women, girls, children, babies, even one-legged persons, all of them naked. In one corner, a strong SS man tells the poor devils, in a strong deep voice, 'Nothing whatever will happen to you. All you have to do is to breathe deeply, it strengthens the lungs; this inhalation is a necessary measure against contagious diseases, it is a very good disinfectant!' Asked what was to become of them, he answered, 'Well, of course the men will have to work, building

streets and houses. But the women do not have to. If they wish to, they can help in house or kitchen.' Once more, a little bit of hope for some of these poor people enough to make them march on without resistance to the death chambers. Most of them, though, know everything, the odor has given them a clear indication of their fate. And then they walk up the little staircase and see the truth! Mothers, nursemaids, with babies at their breasts, naked, lots of children of all ages, naked too; they hesitate, but they enter the gas chambers, most of them without a word, pushed by the others behind them, chased by the whips of the SS men. A Jewess of about 40 years of age, with eyes like torches, calls down the blood of her children on the heads of their murderers. Five lashes into her face, dealt by the whip of Police Captain Wirth himself, chases her into the gas chamber. Many of them say their prayers, others ask: who will give us the water for our death. Within the chambers, the SS press the people closely together; Captain Wirth had ordered: 'Fill them up full.' Naked men stand on the feet of the others. Seven to eight hundred crushed together in 25 square meters, in 45 cubic meters! The doors are closed. Meanwhile the rest of the transport, all naked, wait. Somebody says to me, 'Naked, in winter! But they can die that way!' * * * The answer was, 'Well, that's just what they are here for!' And at that moment I understood why it was called, 'Foundation Heckenholt.' Heckenholt was the man in charge of the Diesel engine, the exhaust gases of which were to kill these poor devils. SS Unterscharfuehrer Heckenholt tries to set the Diesel engine moving. But it does not start! Captain Wirth comes along. It is plain that he is afraid because I am a witness to this breakdown. Yes, indeed, I see everything and wait. Everything is registered by my stopwatch. Fifty minutes, seventy minutes—the Diesel engine does not start! The people wait in their gas chambers. In vain. One can hear them cry. 'Same as in a synagogue,' says SS Sturmbannfuehrer, Professor Dr. Pfannenstiel, Professor for Public Health at the University of Marburg/Lahn, holding his ear close to the wooden door. Captain Wirth, furious, deals the Ukrainian, who is helping Heckenholt, 11 or 12 lashes in the face with his whip. After 2 hours and 49 minutes—as registered by my stopwatch—the Diesel engine starts. Up to the moment the people in the four already filled chambers were alive, 4 times 750 persons in 4 times 45 cubic meters. Another 25 minutes go by. Many of the people, it is true, are dead at that point. One can see this through the little window through which the electric lamp reveals, for a moment, the inside of the chamber. After 28

minutes only a few are living. After 32 minutes, finally all are dead! From the other side, Jewish workers open the wooden doors. Like stone statues the dead are still standing, there having been no room to fall or bend over. Though dead, the families can still be recognized; their hands still clasped. It is difficult to separate them in order to clear the chamber for the next load. * * * Two dozen workers are engaged in checking the mouths, opening them by means of iron hooks. 'Gold to the left, without gold to the right!' * * * Dentists with chisels tear out the gold teeth, bridges, or caps. In the center of everything, Captain Wirth. He is on familiar ground here. He hands me a large tin full of teeth and says, 'Estimate for yourself the weight of gold! This is only from yesterday and the day before yesterday! And you would not believe what we find here every day! Dollars, diamonds, gold! But look for yourself!'" (*Doc. 1442-PS.*)

Who wrote this sleep-robbing horror, this unspeakably mournful tale? A Jew, a Pole, a non-Aryan? This view into one of the deepest furnaces of hell was written by an *SS Lieutenant*, Kurt Gerstein, attending at the execution because of his technical knowledge on poison gases and his familiarity with the technique of sterilization of clothing of deceased persons.

Rudolf Franz Ferdinand Hoess, commandant at the Auschwitz concentration camp from 1 May 1940 to 1 December 1943, must stand out individually as the greatest mass murderer in history. His eminence in wholesale slaughter, his distinction in multiplicitous killing, his supremacy in systematic massacre, must dwarf the fame of all killers from the beginning of time. In comparison to Hoess, Genghis Khan was a Sunday school boy, Torquemada an entertaining Micawber, and Ivan The Terrible, an innocuous, benevolent, old man. With complete self-assurance, Rudolf Hoess declared under oath that he personally supervised the executions at Auschwitz until 1 December 1943, and he estimated that up to that time, 2,500,000 prisoners were, "executed and exterminated there in the gas chambers and crematories."

"At least a further half million people died from hunger and sickness, which adds up to a total amount of about 3,000,000 deaths. This figure represents about 70 or 80 percent of all persons who were sent to Auschwitz as prisoners. The remaining were picked out and used for slave work for the industries located in and surrounding the concentration camp."

Going into the details on this carnage, Hoess explained how he used a crystallized prusic acid which was thrown into the death chambers through a small opening:

"The older extermination camps, Belsec, Treblinka, and

Wolzek had used monoxide gas. To exterminate 1,500 people between 5 and 7 cans of one kilo each of zyklon B were required in cold and humid weather."

Zyklon B gas was also used. Hoess calculated that during the time he was at Auschwitz, 10,000 cans had been purchased for this lethal use:

"This figure is arrived at by computing the number of 2½ million gassed people and the consumption of an average of 6 cans for every 1,500 people."

Not all the Jews arriving at Auschwitz were executed. Those who seemed strong, healthy specimens were permitted to work. The selection could scarcely be called a scientific one. As the prisoners came off the transport a Hauptsturmfuehrer looked at them cursorily, and, with a movement of his right or left hand, indicated respectively death or life. A slight movement of the right hand and the newcomer was sent on his way to the gas chambers; a flick of the left hand and the newly arrived prisoner lived to agonize, and probably later die in a work gang. (*XI/36, Doc. NO-1949.*)

All youngsters under 16 years of age, all mothers with children and all those sick or weak were taken to the gas chambers. (*XXI/26, Doc. NO-2368.*)

What happened to the doomed ones is described by one who witnessed the operation:

"In Auschwitz there were 4 crematories, of which 1 and 2 were the large ones, and 3 and 4 the small ones. Upon their arrival at the crematory, the SS ordered these people (men, women, and children) to jump from the trucks and when this order was not obeyed fast enough, they were beaten with sticks and whips. The SS also had police dogs at their disposal which they set on these people. After being unloaded they were all obliged to undress entirely in the dressing room, and no difference was made between men and women. When they were undressed they were taken into the gas chamber, which was underground in the crematories 1 and 2. These gas chambers looked like large bathrooms; they were tiled, provided with showerbath installations, which, however, were not connected with the water supply. When all the people were in the gas chambers the outside doors, which were gas-tight, were closed. SS Hauptsturmfuehrer Mengele, Tilo, and Klein, and their assistants, the noncommissioned officers of the medical service of the Waffen SS, threw cans of HCN gas through small barred windows into the gas chambers, after which the windows were closed gastight. After 3 or 4 minutes no sign of life appeared anymore from these gas chambers, in which in this manner a

concentration of one hundred percent was obtained. After a security limit of ten minutes the gas chambers were aired and the doors opened. The corpses of the men, women, and children, murdered in this horrible manner, were carried away from the gas chambers by the Kommando, the so-called 'Sonderkommando,' consisting exclusively of Jews and taken to the furnaces where they were totally burnt by pairs. The possessions of these people were declared State property at the station. The clothes were transported to Germany, after being sorted and distributed among Germans who had lost their belongings through air raids. However, the SS men stole much of this 'confiscated' property for their own use or to be used as means of payment on the black market." (XI/39, Doc. NO-1949.)

Heinrich Neumann, an inmate of Auschwitz, stated that in his estimation between 1940 and 1944 four million were executed and that, on certain days, the deaths reached the number of 20,000. (XI/79, Doc. 2222-PS.)

The United States Congressional Committee which inspected concentration camps in April 1945, reported on the facilities for killing which they found at Dachau. The gas chamber there was built of concrete, measured 20 by 20 feet, with a ceiling of some 10 feet in height. The supply of gas was controlled by means of two valves on the outer walls, and beneath the valves was a small glass-covered peephole through which the operator could watch the victims die, 100 to a gassing. Flanking the gas chamber were two warerooms measuring approximately 30 by 50 feet:

"At the time we visited the camp these warerooms were piled high with dead bodies. In one of the rooms the bodies were thrown in an irregular heap. In the other room they were neatly stacked like cordwood. The irregular pile of bodies was perhaps 10 feet high, covering most of the floor space. All of them were naked. It was quite evident that the daily death rate at Dachau, by execution and otherwise, far exceeded the daily capacity of the crematory to dispose of the bodies. The stench indicated that some of them had been there for several days." (VI/79, Doc. L-159.)

In the spring of 1942 an extermination camp was established at Treblinka. It contained 10 death chambers and opened up for business in the early autumn of 1943. Death was inflicted here by gas and steam, as well as by electric current. Behind the death building, and separated from the rest of the camp, stood the barracks and kitchen for the grave diggers. But as the executions grew in numbers mass graves were dug out by motor-driven machines and not by hand and shovels as in the beginning.

While the actual execution operation was handled by the SS, the menial services had to be performed by the inmates themselves.

“The unloading of the trucks, stripping of the victims, and sorting out of their clothes and shoes (Lumpensortierung), the emptying of the death chambers and the burying of the bodies. When a new transport arrived some of the Jews were picked out to do this work so long till they broke down morally under the impression of this organized and mechanized mass murder. Then they had to dig their own graves and take up their position at them, whereupon they were shot one by one by Sauer, personally. Their last duty before dying was to push the body of the preceding victim into its own grave. (XVIII/30, 31, Doc. 3311-PS.) * * * All victims had to strip off their clothes and shoes, which were collected afterwards, whereupon all victims, women and children first, were driven into the death chambers. Those too slow or too weak to move quickly were driven on by rifle butts, by whipping and kicking, often by Sauer himself. Many slipped and fell, the next victims pressed forward and stumbled over them. Small children were simply thrown inside. After being filled up to capacity the chambers were hermetically closed and steam was let in. In a few minutes all was over. The Jewish menial workers had to remove the bodies from the platform and to bury them in mass graves. By and by, as new transports arrived, the cemetery grew extending in eastern direction.” (XVIII/31, Doc. 3311-PS.) It is estimated that 700,000 Jews were killed at Treblinka. The exact figures are impossible since the Germans kept no records of the Jews deported to this camp. (XVIII/31, Doc. 3311-PS.) Kurt Gerstein, who described the killings at Auschwitz [Belsec], also visited Treblinka:

“The next day, Captain Wirth’s car took us to Treblinka, about 75 miles NNE of Warsaw. The installations of this death center differed scarcely from those at Belsec, but they were still larger. There were 8 gas chambers and whole mountains of clothes and underwear about 35–40 meters high. Then, in our ‘honor’ a banquet was given, attended by all of the employees of the institution. The Obersturmbannfuhrer Professor Pfannenstiel, MD, Professor Hygiene at the University of Marburg/Lahn, made a speech: ‘Your task is a great duty, a duty so useful and necessary.’ To me alone he talked of this institution in terms of ‘beauty of the task, humane cause,’ and to all of them, ‘looking at the bodies of these Jews one understands the greatness of your good work!’ The dinner in itself was rather simple, but by order of Himmler the employees of this branch received as much as they wanted as far as butter,

meat, alcohol, etc. were concerned. When we left we were offered several kilograms of butter and a large number of bottles of liqueur." (XVIII/53, Doc. 1553-PS.)

When the gassings first began, just like any other mechanical operation, the facilities were a little primitive. Instead of the highly efficient, technically perfect concrete, steel, and tile gas chambers, two old farm buildings were used at Auschwitz-Birkenau. These two buildings had been constructed by the SS construction office:

"The windows were bricked up, the partitioning walls taken out and a special door put in, which shut the chamber airtight. The space was made to hold three hundred persons. The prisoners had to undress in a barrack situated next to the gas chamber, and were then taken into the gas chamber. After the doors were closed the gas (zyclon B) was thrown by three SS men through slits which could be shut, into the gas chambers. These SS men wore gas masks and were trained in the use of poison gas." (XXI/26, 27, Doc. NO-2368.)

The regulations prescribed that a physician had to be present at each gassing *as a safeguard for the SS personnel!*

"After 5 minutes the initial loud clamor and groaning had stopped. After a further 25 minutes the doors were opened and the corpses of the dead taken by a detail of CC inmates wearing gas masks to the open. The dental gold was removed under the supervision of a Unterscharfuehrer who had been assigned specially to the job by Dr. Lolling, then the corpses were loaded on lorries, and taken to graves which had been dug by a prisoners' detail. After the corpses had been buried the gas chambers were cleaned and were then ready again for the next transport. The clothing was collected, brought to the camp and taken over by the Sturmbannfuehrer Burger." (XXI/27, Doc. NO-2368.)

Witness Victor Abend testified this procedure was not entirely satisfactory because many of the people were not killed and then it became necessary to throw them into the cremating fire while still alive. The cremating process was also an improvised one. Holes were dug into the ground and filled with wood, gas was poured on the wood, and the bodies then placed in the ensuing conflagration. (*Tr. p. 259.*)

This system not only had various defects, but with the increase in business, more up-to-date methods were required. The trend of modernity toward mechanization and assembly line methods was not overlooked even in this most modern of achievements—genocide—a business so novel that a new name had to be coined for it. Genocide, the scientific extermination of a race. Friedrich

Entrees, camp physician at Auschwitz, continues with his narrative:

“The reason for the new construction of gas chambers and crematories was the increasing number of transports. The new crematories were built in such a manner that the complete process of liquidation could take place in one building. The prisoners were first taken to the dressing rooms and then to the gas chambers. The new gas chambers had properly constructed chutes through which the gas was let in and had a modern ventilation system. Adjacent to the gas chambers the crematories were situated, so that the crematories could carry out the liquidation of the prisoners in an assembly line manner (laufendes Band).” (XXI/27, Doc. NO-2368.)

And then the inevitable hardening of the heart and the callousness of feeling to mass human butchery which in time became as casual as the killing of beasts in an up-to-date abattoir:

“I am of the opinion that those participating in the gassings became a willing tool, under the pressure of the system prevalent in concentration camps, and the impressions made on them during the gassings by which one can explain that such actions were possible at all.” (XXI/29, Doc. NO-2368.)

Several of the defendants on trial in this case testified that although they had visited Auschwitz and immediate vicinity, they did not know, nor did they learn anything of the mass exterminations taking place there. Gerhard Wiebeck, a former SS man and so-called war representative, made various trips to Auschwitz where a huge cloud of smoke, which could be seen for miles around, hung over the concentration camp. He was told by a member of the Reich criminal police and judicial officers of the concentration camp that, “the gassing of prisoners in Auschwitz was no secret.” (XXI/32, Doc. NO-2331.)

Some efforts were made to hide from the doomed inmates what was awaiting them. Artificial trees were erected around the crematories and the gas chambers. But the waiting ones could, nonetheless, hear the screams of their wretched predecessors. So a method—the SS were resourceful—was devised to conceal the screams. A music camouflage was introduced:

“At that time the children were burned on big piles of wood. The crematories could not work at the time, and therefore, the people were just burned in open fields with those grills, and also children were burned among them. Children were crying helplessly and that is why camp administration ordered that an orchestra be made by a hundred inmates, and should play. They played very loud all the time. They played the Blue Danube or Rosamunde; so that even the people in the city of

Auschwitz could not hear the screams. Without the orchestra they would have heard the screams of horror; there would have been horrible screams. The people two kilometers from there could even hear these screams; namely, that came from the transports of children. The children were separated from their parents, and then they were put to section III camp. Maybe the number of children was several thousand." (*Tr. pp. 388, 389.*)

In August 1944 some of the inmates rose in rebellion and destroyed one of the gas chambers. It did not prevent their being gassed, of course, and it brought about a horrifying sequel which, could they have anticipated it, would in itself have stayed their indignant hands. The remaining three gas chambers continued to work, but one day they were being used for adults, and there was on hand a batch of children to be exterminated. The SS, known for their quick wittedness in solving any trying problem, simply solved this one by burning the children—alive.

But they were not entirely devoid of feeling in the execution of this rather nasty job:

"When one of these SS people sort of had pity with the children, he took the child and beat the head against the stone first before putting it on the pile of fire and wood so that the child lost consciousness." (*Tr. p. 389.*)

The general practice, however, was simply to throw the tots into the flames. The procedure was simple:

"They used to put a sheet of wood, then the whole thing was sprinkled with gasoline, then wood again, and gasoline and wood, and gasoline—and then people were placed on there. Thereafter the whole thing was lit." (*T/389.*)

Several thousand children were burned alive at this time. (*T/389.*)

As a variation to this entire macabre performance, the assassins now introduced the murder van technique. The victims were gathered in a group and informed they were to be taken to another locality for resettlement. The van drew up and the families were loaded aboard.

"Then the doors were closed and the gas streamed in through the starting of the vehicles. The victims died within 10 to 15 minutes. The cars were then driven to the burial place, where the corpses were taken out and buried." (*XVIII/23, Doc. 2620-PS.*)

At Mauthausen concentration camp transport vans were fitted up in such a manner that Zyclon B could be introduced while the vehicle was in motion. In this way no time was lost. The van picked up prisoners at Mauthausen, passed them on the way to

Gusen, where they were unloaded and cremated. At Gusen another load of prisoners was picked up, gassed on the journey back to Mauthausen and there cremated in the crematory awaiting them. (*V/180, Doc. 499-PS.*)

Germany was fighting a war for its very existence. Leaving apart the origin of the conflict, forgetting for the moment whether from Germany's point of view the war was just or unjust, the fact remained that after Stalingrad every resource of raw material and blood was needed to save Germany itself from invasion and destruction. By February 1943, it was evident to every person in Germany above the mental age of 10, that Germany was fighting a war for survivorship, fighting on the actual brink of total catastrophe. And yet, while teetering on that edge, the very strength needed to hold on was dissipated in the maniacal execution of a maniacal hate against a people who had in no way declared war against them. The direction of many combat troops sorely needed on the battlefield were diverted on this insane mission of extermination. Incalculable manpower was killed off, property of every description was destroyed—every consideration remained unconsidered as against this insanity to wipe out a defenseless race.

Oswald Pohl, on the witness stand, attempted to defend his position on the Jews by saying that he had not opposed the Jews prior to the war, but when the war came he had to decide between Germany and the Jews, and he chose Germany. But it was not apparent that there was a necessity for such a decision. A German report on indiscriminate Jewish massacring in the Ukraine declared:

“The attitude of the Jewish population was anxious—obliging from the beginning. They tried to avoid everything that might displease the German administration. That they hated the German administration and army inwardly goes without saying and cannot be surprising. However, there is no proof that Jewry as a whole or even to a greater part was implicated in acts of sabotage. Surely, there were some terrorists or saboteurs among them just as among the Ukrainians. But it cannot be said that the Jews as such represented a danger to the German armed forces. The output produced by Jews who, of course, were prompted by nothing but the feeling of fear, was satisfactory to the troops and the German administration.” (*XVIII/18-19, Doc. 3257-PS.*)

In March 1945 the extermination program was halted, not because conscience long lost in the jungle of greed and arrogance had caught up with the Nazis, but because the labor supply had become so critical that thought had to be given even to keeping

alive a few Jews. According to Gluecks, chief of department [division] D of WVHA: "There were still 15,000 Jews still alive." Himmler decided he could employ them also in another capacity. He could "use these people as the trump card in negotiations with Count Bernadotte", which Himmler thought at the time might save his life.

THE WARSAW ACTION

By 10 November 1940 the Government General of Poland had completed its announced intention of confining within one circumscribed area all the Jews of Warsaw. Separated from the rest of the city by walls, partitions, bricked-up doors and windows, the 400,000 Jews enclosed therein, looked forward to a life of slavery, imprisonment, degradation, misery and suffering. Deprived of their property, citizenship and freedom, compelled to work without compensation or remuneration of any kind, life had become desolate and unmeaningful. Yet there was still life. Crowded as they were into apartments and rooms not large enough for one-fifth their number, yet they could still live. They still had the association of their endeared ones, of their friends, and in each heart burned always the lamp of hope. Hope that this injustice could not go on forever; that those who had tortured and imprisoned them could not possibly always be triumphant. The world was in arms against these outlaws. The lamp burned brightly. It lighted up the dark days and the Cimmerian nights. It was enough that these prisoners could keep the flame of life burning, and the day would come when at last this nightmare would be over.

But in the summer of 1942 the light was extinguished for 75 percent of the population. Of the 400,000, 310,322 were taken away by the SS under the policy of "resettlement", and in January 1943, 6,500 more were "resettled".

Shortly thereafter Himmler visited Warsaw and ordered the evacuation of the Warsaw ghetto.

It was assumed that the remaining inmates of the ghetto, some 60 to 70 thousand, would submit docilely to Himmler's orders, but they did not. In a resistance which must take its place among the legendary heroisms of the ages, these helpless and defenseless people fought and left a monument of courage and selfless glory which loses none of its luster in being compared to Thermopylae, Balaklava, and the Alamo. And by the same token, their aggressor assassins have left a record of infamy and cowardice which does not need to lower its black flag of shame to any Attila, Ghengis

Khan, oriental despot, or head hunter chief in the wilds of the most savage jungle.

The record of the battle of Warsaw was written by the SS itself. Since the defenders all perished, not one of the oppressed was left to tell his story, nor is there any document to relate the tortures they suffered in those 27 days of unmitigated hell. SS General Stroop, in charge of the operation, kept a day-to-day account of the action, and it is from his reports that we are able to reconstruct this epic of suffering and death, and yet imperishable glory although generally unknown to the world.

When General Stroop first learned that the occupants of the ghetto refused to give themselves up, he expected that with the forces at his command he could break down all resistance in 1 day, certainly 3 days would be ample. At his disposal he had over 2,000 men and 36 officers distributed among cavalry, Panzer outfits, Wehrmacht, Waffen SS, flame throwers, police and Gestapo. For ordnance he had in addition to the usual rifles, pistols, machine guns, and hand grenades, heavy armored cars, one 10 centimeter howitzer, one flame thrower, three 2.20 centimeter AA guns, at least one tank and engineering equipment of all kinds with demolition units. All this, to move on civilian men, women, and children, possessed only of a determination to hold inviolate their freedom and armed only with such weapons as they could manufacture themselves and pick up here and there.

With ingenuity and foresight they had collected from the various plants in which they had been employed enough chemicals to construct the so-called Molotov Cocktail (bottles filled with explosive substances, corked with a lighted candle). They were able to put together hand grenades, they improvised rockets, they fashioned missiles. Thus, on the very first day, 16 April, when Stroop attacked with his tanks and two armored cars, he was considerably surprised to find this heavy armor thrown back:

“When we invaded the ghetto for the first time, the Jews and the Polish bandits succeeded in repelling the participating units, including tanks and armored cars, by a well-prepared concentration of fire. When I ordered a second attack, about 0600 hours, I distributed the units, separated from each other by indicated lines, and charged them with combing out the whole of the ghetto, each unit for a certain part. Although firing commenced again, we now succeeded in combing out the blocks according to plan. The enemy was forced to retire from the roofs and elevated bases to the basements, dugouts and sewers. I ordered to construct a barrier dam below the ghetto and filled with water, but the Jews frustrated this plan to a great

extent by blowing up the turning off valves. Late the first day we encountered rather heavy resistance, but it was quickly broken by a special raiding party." (XX/10, Doc. 1061-PS.)

In a spirit of defiance which would have done credit to a duly organized and armed unit, the besieged hoisted flags above their home fortification, the Jewish and Polish standards.

Throughout Stroop's report the defending forces are never referred to as human beings. They are always Jews, subhumans, Polish bandits, gangsters, or terrorists. Although the report writer constantly characterizes the Jews as cowards, he describes deeds which are performed only by the daring and brave who sell their lives and their honor dearly. One item in the SS General's report reads:

"Whereas it had been possible during the first days to catch considerable numbers of the Jews, who are cowards by nature, it became more and more difficult during the second half of the action to capture the bandits and Jews. Over and over again new battle groups consisting of 20 to 30 or more Jewish fellows, 18 to 25 years of age, accompanied by a corresponding number of women, kindled new resistance. These battle groups were under orders to put up armed resistance to the last and if necessary to escape arrest by committing suicide." (XX/12, Doc. 1061-PS.)

We see no poltroonery in that type of conduct. The report then immediately relates an episode of intrepidity which should have moved the SS forces to admiration of a brave foe if any chivalry at all had coursed through their veins:

"One such battle group succeeded in mounting a truck by ascending from a sewer in the so-called Presta, and in escaping with it (about 30 to 35 bandits). One bandit who had arrived with this truck exploded 2 hand grenades, which was the agreed signal for the bandits and Jews—there were Polish bandits among these gangs armed with carbines, small arms, and in one case a light machine gun,—mounted the truck and drove away in an unknown direction." (XX/12, Doc. 1061-PS.)

The attacking forces now brought their artillery into play, so that with roofs crashing and walls toppling about them the defenders were compelled to take to dugouts and to sewers to continue their resistance. The SS men pursued them into these refuges by flooding the sewers, introducing smoke candles and pouring creosote into the water. Each day the besiegers captured large numbers of the Jews and liquidated them on the spot or sent them to the extermination center at Treblinka, trains being in waiting every day for this macabre trip. But at no time was there any indication on the part of the besieged to surrender

themselves. Dugouts were blown up, and the smashed masonry and falling debris took its uncounted toll, but the white flag never rose above the fighting and dying defenders:

“As in the preceding days, uncounted Jews were buried in the blown-up dugouts and, as can be observed time and again, burned with this bag of Jews today. We have, in my opinion, caught a very considerable part of the bandits and lowest elements of the ghetto. Intervening darkness prevented immediate liquidation. I am going to try to obtain a train for T II tomorrow. Otherwise liquidation will be carried out tomorrow * * *. (XX/26, *Doc. 1061-PS.*) In a number of cases the inmates of the dugouts were hardly in a condition, when the dugout had been blown up, to crawl to the surface. The captured Jews report that many of the inmates of the dugouts became insane from the heat, the smoke, and the explosions.” (XX/28, *Doc. 1061-PS.*)

The report is filled with complaints about the unfairness of the subhuman adversary:

“The whole operation is rendered more difficult by the cunning way in which the Jews and bandits act; for instance, we discovered that the hearses which were used to collect the corpses lying around, at the same time bring living Jews to the Jewish cemetery, and thus they are enabled to escape from the ghetto. Now this way of escape also is barred by continuous control of the hearses.” (XX/24, *Doc. 1061-PS.*)

The report continuously calls the defenders cowards and subhumans and continues narrating deeds of grandiose courage and deathless devotion to the cause of freedom:

“All the Jews caught today were forcibly pulled out of dugouts. Not a single one gave himself up voluntarily, after his dugout had been opened. A considerable part of the Jews caught were pulled out of the sewers. In one case the engineers laid a strong concentrated charge and had to proceed to an adjoining entrance where they had something to do. In the meantime a Jew from the sewer removed the fuse from the concentrated charge, and appropriated the charge. In the further course of this operation we succeeded in catching this Jew, still in possession of the concentrated charge.” (XX/35, *Doc. 1061-PS.*)

The battle had now developed into fierce encounters at close quarters. “Some of the Jews fired pistols from both hands.” A few captured Jewesses carried pistols concealed in their bloomers which resulted in an order that “every Jew and bandit will be ordered, from today on, to strip completely for the search.” (XX/37.)

Though “cowardly”, a Jewess, upon being arrested in a dugout “quick as lightning put her hand under her shirt, as many others had done, and fetched from her bloomers a ‘pineapple’ hand grenade, drew the safety-catch, threw the grenade among the men who were searching her, and jumped quickly to cover.” (XX/49, *Doc. 1061-PS.*)

Astounded and bewildered by the resistance offered by the defenders, Himmler, on 23 April, issued orders to complete the combing out of the Warsaw ghetto “with the greatest severity and tenacity.” General Stroop now attacked with flame-throwers and other incendiary means, setting fire to the ghetto which burst into a sea of flames:

“Not infrequently, the Jews stayed in the burning buildings until, because of the heat and the fear of being burned alive they preferred to jump down from the upper stories after having thrown mattresses and other upholstered articles into the street from the burning buildings. With their bones broken, they still tried to crawl across the street into blocks of buildings which had not yet been set on fire or were only partly in flames.” (XX/13, *Doc. 1061-PS.*)

Stroop congratulated himself on the excellence of the strategy:

“Our setting the block on fire achieved the result in the course of the night that these Jews whom we had not been able to find despite all our search operations left their hide-outs under the roofs, in the cellars, and elsewhere, and appeared at the outside of the buildings, trying to escape the flames. Masses of them—entire families—were already aflame and jumped from the windows or endeavored to let themselves down by means of sheets tied together or the like. Steps had been taken so that these Jews as well as the remaining ones were liquidated at once.” (XX/21, *Doc. 1061-PS.*)

But there were some who preferred the yellow face of the devouring flames to the black countenance of the waiting SS:

“Over and over again we observed that Jews and bandits, despite the danger of being burned alive, preferred to return into the flames rather than risk being caught by us.” (XX/25, *Doc. 1061-PS.*)

Others of this “cowardly” race “fired their arms until the last moment and then jumped into the street, sometimes from as far up as the fourth floor.” (XX/30, *Doc. 1061-PS.*)

Day by day Stroop reported the advance made by his flame throwers, and never did he fail to add his word of deprecation:

“During today’s operation several blocks of buildings were burned down. This is the only and final method which forces

this trash and subhumanity to the surface.” (XX/28, Doc. 1061-PS.)

And then summing up the day’s operation:

“1,330 Jews pulled out of dugouts and immediately destroyed, 362 Jews killed in battle. Caught today altogether: 1,722 Jews. This brings the total of Jews caught to 29,186. Moreover, it is very probable that numerous Jews have perished in the 13 dugouts blown up today and in the conflagrations. At the time of writing not one of the Jews caught still remains within Warsaw. The scheduled transport to T II had no success (note of translator: This probably meant that no Jews were available for regular transport to the extermination camp).” (XX/29, Doc. 1061-PS.)

Stroop thought that some of the Jews were most unkind. They would jump “from the burning windows and balconies, abusing Germany and the Fuehrer and cursing the German soldiers.” Did he assume that they would jump heiling Hitler? (XX/30.) The unreasonableness and persistence of the defenders was quite irritating to Stroop:

“If the Jews are requested to leave their dugout voluntarily, they hardly ever obey; they can only be forced to do so by the use of smoke candles.” (XX/38, Doc. 1061-PS.)

Not until the blocks of buildings “were well aflame and were about to collapse,” did the Jews emerge, “forced to do so by the flames and the smoke.”

“Time and again the Jews try to escape even through burning buildings. Innumerable Jews whom we saw on the roofs during the conflagration perished in the flames. Others emerged from the upper stories in the last possible moment and were only able to escape death in the flames by jumping down. Today we caught a total of 2,283 Jews, of whom 204 were shot and innumerable Jews were destroyed in dugouts and in the flames. The sum total of Jews caught rises to 44,089.” (XX/38, Doc. 1061-PS.)

The battle began 16 April. As late as 8 May Stroop reports, “a number of subhumans, bandits, and terrorists still remain in the dugouts where heat has become intolerable by reason of the fires.” (XX/42, Doc. 1061-PS.)

But the brave Stroop, with his tanks, armored cars, and howitzers, pitting the ordnance of a modern army against a few men, women, and children in caves, dugouts, and smoldering ruins, proclaims on 8 May, “the undersigned is resolved not to terminate the large scale operation until the last Jew has been destroyed.” (XX/43, Doc. 1061-PS.)

The SS report is accompanied by a series of photographs show-

ing various phases of the battle. Scene after scene depicts flaming buildings, broken-boned men and women lying on the streets unable to move, children holding up their hands in terror, victims lining against the wall to be shot. And yet in this ultimate catastrophe the few remaining live ones still refuse to bow their heads to their oppressors so that General Stroop, the valiant, reports on 10 May, the twenty-fourth day of crimson, lopsided battle, "the resistance offered by the Jews has not weakened today." Up to this moment the defenders had lost 51,313. (XX/44-45, Doc. 1061-PS.)

On 16 May, at 20:15 hours, the Germans blew up the synagogue and silence settled over Warsaw. The large-scale action had terminated. Not one of the defenders was alive. Stroop reported:

"Only through the continuous and untiring work of all involved did we succeed in catching a total of 56,065 Jews whose extermination can be proved. To this should be added the number of Jews who lost their lives in explosions or fires but whose numbers could not be ascertained." (XX/14, Doc. 1061-PS.)

Aside from the great moral victory achieved by the SS in this intrepid action, they were able to report a few practical returns as, for instance, 5 to 6 million Zlotys, a considerable amount of foreign currency including \$14,300 in paper, \$9,200 in gold and "large amounts of valuables (rings, chains, watches, etc.)." The report closes with:

"With the exception of 8 buildings, (police barracks, hospital, and accommodations for working parties) the former ghetto has been completely destroyed. Where blowing up was not carried out, only partition walls are still standing." (XX/54, Doc. 1061-PS.)

THIEVERY

Running hand in hand with the extermination program, and definitely part of it, was the appropriation of all Jewish property, personal, real, and mixed. Every live Jew gave up his house, his land, his money, all his personal property. Every dead Jew gave up not only all this, including his watch, fountain pen, jewelry, clothing, and shoes, but also the gold teeth and fillings torn from his mouth after his murder. In some instances the dental gold was removed *prior* to the killings.

The property taken ran the entire gamut from estates, factories, and houses, down to the last little item of baby shoes. Nothing was omitted from this gigantic thieving program: everything from automobiles and locomotives down to the last suit of underwear was stripped from the defenseless and unoffending Jew. The thievery was on a scale not only to shame the fabulous pirates of the Spanish Main, but to stagger imagination and

prostrate credulity. Were it not for the accurate and full records kept by the Nazis themselves, no one could believe that so vast a plan of thievery could be devised and carried into execution. Although no Nazi, alive or dead, has ever answered the question as to *why* the Jew had to die, there is no lack of evidence that his death enriched his captor, fattened his oppressor, and filled the blood-stained pocket of his assassin. All those whom the Nazi hierarchy represented detested, hated, and loathed the Jews, but nonetheless they carried their watches, wrote with their fountain pens, wore their clothing, and inserted the gold taken from the deceased Jews into their own mouths.

In June of 1942 Reinhard Heydrich, chief of Security Police and SD, met his death near the village of Lidice, Czechoslovakia at the hands of Czech patriots. The Nazi hierarchy made of Heydrich a sort of martyr and thus applied his name to an action which was a carefully devised plan to make the Jew pay with his property, his labor, his goods, and his life, for a deed with which he was in no way connected. This does not mean that the Jew would not have been equally destroyed even though Heydrich had continued to live, but the death of this Nazi bigwig gave name to an action worthy of the nefarious character whose fetid memory it perpetrated.

The Action Reinhardt was divided into four branches—

1. Evacuation of all Jews to concentration camps, labor camps, and extermination centers.
2. Utilization of their manpower.
3. Utilization of their property.
4. The recovering of hidden valuables and real estate. (*XIX/22, Doc. NO-057.*)

We saw how all Jews removed from their homes for transportation to concentration camps were ordered to take with them all their belongings. Under the cruel implication that this was done so that the owner could have an eye on his possessions, the Nazis were able to gather in, as if with a rake, all the Jews' property without even having to look for it.

As the Jew arrived at Auschwitz, or any other extermination camp, he turned in for "safe keeping" everything he carried with him except the clothes on his back. Before entering the "shower room" he removed his clothing and then after the lethal bath some sturdy Nazi apprentice dentist tore out his gold fillings.

As the exterminations were accomplished with modern assembly line methods, so were up-to-date business methods used in assembling the property, cataloguing, and distributing it.

On 26 September 1942, defendant Frank notified the chief of the SS garrison at Lublin that he was to send all confiscated

moneys to the Reich Bank, and that all foreign exchange, rare metals, jewelry, precious and semi-precious stones, pearls, dental gold, and scrap gold were to be consigned to the WVHA which would in turn deliver it to the Reich Bank. Watches, clocks, fountain pens, mechanical pens, flashlights, wallets, and purses, were to be repaired and delivered to front line troops on a cash basis. Men's clothing and men's underwear, women's clothing and women's underwear, including footwear of all types, children's clothing and children's underwear, were to be turned over to the Volksdeutsche Mittelstelle "against payment." "Underwear of pure silk is to be handed over to the Reich Ministry of Economics."

Every type of commodity imaginable was included in this wholesale looting expedition: featherbeds, quilts, woolen blankets, cloth for suits, shawls, umbrellas, walking sticks, thermos-flasks, ear-flaps, baby carriages, combs, handbags, leather belts, shopping baskets, tobacco pipes, sun glasses, mirrors, table knives, forks and spoons, suitcases, knapsacks, bed sheets, bed linen, pillows, towels, wiping cloths and tablecloths.

Spectacles and eye glasses of every description were to be handed over to the medical office for utilization, although spectacles with gold frames were to be separated from the mass so that the frames could be utilized as rare metals.

Valuable furs of all kinds, raw and cured, ordinary furs, lamb, hare, and rabbit skins—everything—(nothing was discarded or lost) were included in this net which drew up from the sea of thievery all the possessions of a condemned and doomed race.

There was just a little evidence of self-consciousness in this brigandage in the desire to not make too evident the source of the loot. Accordingly Frank's order contained the injunction: "It has to be strictly observed, that the Jewish Star is removed from all garments and outer garments which are to be delivered." (XVIII/87, Doc. NO-724.)

On 19 October 1943, the execution of the Action Reinhardt was completed and SS General Globus [Globocnik] asked Himmler for a number of Iron Crosses to be presented to the worthy persons for their meritorious accomplishment in this important task.

The accompanying report on the loot read:

"Valuables from the 'Reinhardt Operation' have been handed in at the SS WVHA Berlin for transmission to the Reich Bank or to the Reich Ministry of Economy as follows:

- a. RM, total value..... RM 53,013,133.51
- b. Foreign currency, in notes, from all main countries of the earth (particularly the half million dollars are noteworthy) total value RM 1,452,904.65

c. Foreign currency in coined gold, total value	RM	848,802.75
d. Precious metals (about 1,800 kg gold and about 10,000 silver in ingots) total value	RM	5,353,943.00
e. Other valuables such as jewels, watches, glasses, etc. (in particular, the number of watches, about 16,000 watches in working condition and about 51,000 watches in need of repair, is noteworthy; they have been placed at the disposal of the troops)	RM	26,089,800.00
f. About 1,000 boxcars of textiles, total value	RM	13,294,400.00

in total RM 100,047,983.91

“About 1,000 boxcars of textiles are still in stock, and about 50 percent of above-mentioned other valuables, which still must be counted and appraised. It should be stressed that the valuations given above have been established on the basis of official exchange rates and prices, commercial values are, however, much higher, for instance when selling precious stones or metals abroad, as the flight into fixed values is greater there than in our country. Moreover, sales abroad bring us foreign currency.” (XVIII/92, Doc. NO-060.)

On 30 November 1943 Himmler acknowledged the report and said to Globus [Globocnik]:

“I express to you my thanks and gratitude for the great and unique merits you have earned by the performance of operation Reinhardt for the benefit of the entire German nation.” (XVIII/98, Doc. NO-058.)

So as to remove the stigma of Jewish origin and the stains of the homicidal blood, an office for Germanization was set up to *Germanize* the clothing taken from the murdered Jews. A report indicated the itemization:

Men's old clothing	97,000 sets	
Women's old clothing	76,000 sets	
Women's silk underwear	89,000 sets	
		Total: 34 cars
Rags	400 cars	2,700,000kg.
Bed feathers	130 cars	270,000kg.
Women's hair	1 car	3,000kg.
Scrap material	5 cars	19,000kg.
		Total: 536 cars

570 cars

The same report goes on in further itemization of clothing whose quantity reaches a bulk which filled a total of 825 freight cars. (XVIII/130, Doc. NO-1257.)

Ever loath not to lose a single stolen pair of eye glasses, Himmler wrote Pohl under date of 15 January 1943:

"I again request SS Obergruppenfuehrer Pohl to arrange a written agreement with the Minister for Economics regarding each individual category; whether it is a question of watch-glasses, of which hundreds of thousands—perhaps even millions—are lying there, and which for practical purposes could be distributed to the German watchmakers or whether it is a question of turning-lathes, which we need for our workshops, and which we can either have legally given to us by the Minister for Economics or buy from him. Or whether it is a question of sewing machines to which the same thing applies, or common furs or superior ladies' furs. I believe, on the whole, we cannot be too exact." (XVIII/131, Doc. NO-1257.)

In an attempt to cheat their own knowledge and give the thinnest veneer of justification to their wholesale thievery, the SS referred to this property taken from the Jews as "Jewish concealed and stolen goods."

On 13 May 1943, defendant Frank reported that up to 30 April 1943, 94,000 men's watches, 33,000 ladies' watches, 25,000 fountains pens, etc., had been delivered. He suggested that the repaired watches be distributed among combat divisions and concentration camp SS guards, and asked Himmler what was to be done with the 33,000 ladies' watches.

Also what was to be done with—

"a. Some hundreds numismatically very valuable old gold and silver coins (partly from the period prior to the christian era) of high collector's value.

b. Four big boxes with valuable stamp collections, among them complete collections of an individual value of 40,000 marks and more.

c. About 5,000 watches of most expensive Swiss make, in *pure gold and platinum cases*, partly fitted with precious stones (golden watches of inferior make or of clumsy or ostentatious style were already handed to the Reich Bank for melting down.)" (XVIII/137, Doc. NO-2003.)

One does not know whether the author of the Reinhardt report was indulging in some grisly humor when he said that what was seized and taken under Action Reinhardt was "accounted for and delivered with the greatest expediency and *without defrauding.*" (XIX/27, Doc. NO-059.)

In accounting for miscellaneous items the report states:

"Valuable furniture and household items were reconditioned and mostly given to racial German settlers for use. But German agencies and army agencies got also such furniture as a loan against issuance of a bill. Items of minor value were either destroyed or given to the population as premiums for good harvests, etc. Efforts were made to dismantle parts such as locks, hinges, and the like from items which could not be used, and to use them again." (*XIX/30, Doc. NO-059.*)

It recapitulates:

"The total value of these items amounts to approximately 180,000,000 RM according to the attached list. The lowest value was taken as a basis so that the total amount is probably twice as high, apart from the value of the received items which are short, such as textiles of which more than 1,900 wagons had been delivered to German industry." (*XIX/29, Doc. NO-059.*)

We have seen that one phase of the Action Reinhardt emphasized the utilization of all confiscated, Jewish, industrial enterprises. A company (the Ostindustrie G.m.b.H.) was formed in March 1943, to run and exploit these industries. The stated object of the organization was "(1) to utilize the working capacity of the Jews by erecting industrial plants in connection with Jewish labor camps; (2) to take over commercial enterprises which had been maintained by the Higher SS and Police Leaders in the Government General; (3) to confiscate all Jewish machinery and raw materials; (4) to utilize all former Jewish machines, tools, and merchandise which had been transferred to non-Jewish ownership."

OSTI worked with a variety of branches of trade and industry: "Thus glass works were operated in Wolomin, a peat cutting plant was established in the marshes near Lublin, brushes were manufactured, a big textile factory was taken over, an iron processing plant was erected." (*XIX/67, Doc. NO-1271.*)

An equipment plant was operated in Oradin where uniforms were made, and shoes and civilian clothes repaired:

"When planning the main structure of the 'OSTI', the main emphasis was laid on the foundry in Lublin. The Jews confined to the Lublin labor camp were to be employed here for the armament production in an iron foundry. The construction of the works was begun in August 1943. After the burning of the Warsaw ghetto the machines, which were still serviceable, were brought to Lublin, were repaired and installed again. Machines from the Bialystok ghetto were also brought to Lublin. A very small part of the production was begun still in October

1943. The main work was to commence in the middle of November." (XIX/73, Doc. NO-1271.)

OSTI would have been a most profitable organization for the Reich, but with the liquidation of the Jews there remained no manpower to run the industries, and the operation folded up in November 1943. (XIX/69, Doc. NO-1271.)

Aside from the desecration of the body which must fill every normal-minded person with revulsion, the extraction of dental gold from the deceased concentration camp inmates derived its criminality from the fact that it was, in a good percentage of the cases, premeditated larceny. Prisoners were required to go to the hospital, ostensibly for examination and treatment of their teeth, but in reality so that a record could be made as to whether they had gold in their mouths or not.

"If he had gold in his mouth he was registered carefully and after he died he had to pay the gold from his mouth for the last tribute for the fight against National Socialism." (X/133, Doc. NO-2637.)

An SS dentist who served at Buchenwald describes the procedure of taking gold from deceased prisoners:

"I had also to make reports on the gold which was taken out of the mouths of deceased prisoners. These reports were made to the chief dental surgeon in Oranienburg. In 1944 this was Dr. Pook. The quantity of gold taken from the deceased prisoners had to be reported monthly along with the other routine reports through the mail. The gold was delivered to the administration officer, Barnewald, who, as far as I know, handed it over to the Reich Bank." (XXI/35, Doc. NO-2127.)

In 1943 office D III of WVHA issued an order to the effect that any one suffering from a disease was to receive a mark on the upper arm after examination and the eventual removal of any gold teeth, the sign to read: "Examined by the dental surgeon." (XXI/39, Doc. NO-2332.)

An order from WVHA dated 8 October 1942, stated specifically that "gold removed from the teeth and supplied in the normal way by the concentration camps" was to be delivered to the Reich Bank. (XXII/62, doc. NO-2305.)

The day following the visit of the U.S. Congressional Committee at Buchenwald a large cache of gold fillings and rare jewelry was discovered in a quarry near the camp. "Included were literally thousands of wedding rings alone." (VI/71, Doc. L-159.)

It is said of a famous Chicago packing house which is able to turn to some commercial use every part and item of slaughtered animals that of the pig, only the squeal is lost. Of the concentration camp inmate, the Reich lost nothing. The hair shorn from

his head was sold at the rate of RM .50 per kilogram, and the proceeds were deposited with the Reich treasury. (V/159, Doc. 3680-PS.)

WVHA

In 1934 Oswald Pohl, who is number one defendant in this case, was chief of administration of the SS office located at Munich. At the same time Pohl was Plenipotentiary of the Treasury of the Nazi Party. In this early stage, this one office controlled the finances and administration of the concentration camps as well as those of the Allgemeine SS, the Special Service [Purpose] Troops and the Death Head units. The office had also been engaged in business on behalf of the SS and Nazi Party, utilizing the labor of concentration camp inmates in various enterprises, such as the German Earth and Stone Works, and the Granite Works at Flossenbuerg, Mauthausen, Gross-Rosen and Natzweiler. In 1940 Pohl and Georg Loerner formed the German business enterprises which became known as the DWB Combine, a holding company for numerous business enterprises now being run by the Administration Department. Its capitalization exceeded 46 million RM.

On 20 April 1939, the administrative department, by an order of Himmler himself, became a main office of the SS with the title Administrative and Economic Main Office of the SS. This new office had three divisions:

Amt I (budget) which controlled the allocation of prisoner labor.

Amt II (buildings) handling all building and construction work.

Amt III (economic enterprises).

These three departments all had representatives in the concentration camps.

The actual immediate direction of the concentration camp local machinery came under still another organization known as the Inspectorate of Concentration Camps, not under Pohl's management.

Himmler, however, had long desired that there should be one central authority for concentration camps, and he wished that authority to be Oswald Pohl. Thus, in March 1942, these various offices were all consolidated into one organization which became known as the SS Economic Administrative Main Office (WVHA) with 5 separate departments or Amtsgruppen (A, B, C, D, W).

The functions and duties of the various departments may briefly be summarized:

Department A—administration

Office A I—budgets.

Office A II—finance and payroll.
Office A III—legal.
Office A IV—audits.
Office A V—personnel.
 Department B—supply billets
Office B I—food supplies.
Office B II—clothing.
Office B III—billeting office.
Office B IV—raw materials and procurement.
Office B V—transportation.
 Department C—constructions
Office C I—general construction.
Office C II—special construction task.
Office C III—special technical fields.
Office C IV—special art projects.
Office C V—central constructions inspection office.
Office C VI—building maintenance.
 Department D—concentration camps
Office D I—central office.
Office D II—inmate labor commitments.
Office D III—medical affairs and camp hygiene.
Office D IV—concentration camp administration.
Office D V—legal department.
 Department W—economic enterprises
Office W I—Stones and Earth (Reich).
Office W II—Stones and Earth (East).
Office W III—food manufactories.
Office W IV—timber works.
Office W V—organization of agriculture, forestry, fisheries.
Office W VI—utilization of textiles and leather.
Office W VII—books and pictures.
Office W VIII—special projects.

Each office in department W was subordinate to the so-called staff W, which was responsible to the chief of the department. The head of staff W held the position of economic advisor to the managing director, Oswald Pohl, and had immediate supervision over the directors of the DWB, the auditing and legal departments, tax affairs and those concerning plant management. All communications to the highest party office, ministries and central authority, went through the chief of staff W.

Departments A, B, C, and D were allocated funds like any other administrative office of the Reich with government funds. Department W, on the other hand, worked essentially along commercial lines, utilizing private funds, bank credits, etc. It is

Pohl's estimate that SS enterprises were financed 40 percent with Reich funds and 60 percent through private credit.

The WVHA offices were located in Berlin with the exception of department D installed at Oranienburg. Thus the defendants claimed they had no direct, physical contact with the concentration camps and could not know what was happening in them. However, in addition to the visits which many made to the camps themselves, there were meetings every 3 or 4 months in the WVHA building in Berlin and in the department D building at Oranienburg with the concentration camp commanders.

"The questions which were discussed at these meetings were mostly the following: labor assignment, food rations, clothing, quarters, treatment of the prisoners, nature of punishment and the carrying out of punishments, erection of new outside camps, evacuation of invalids to other camps, questions of troops and guards, particularly—since there was a considerable shortage of guards—training of female wardens and their recruiting."

It was department D which ordered that prisoners of war detained in concentration camps were to be treated like all other inmates. This same department controlled labor allocations and even the camp commander had no authority to intervene in such matters. (*III/112, Doc. NO-2327.*)

The order for the gassings and for administering lethal injections to Russian prisoners of war came still from department D. Max Pauly, excommandant of the concentration camp at Neuengamme, stated that when he found the prisoners of war too feeble to work, he requested of department D that the working hours be reduced from 11 to 9 hours, but this was refused. (*V/132, Doc. NO-1201.*)

When detainees dead and dying arrived at the Buchenwald concentration camp in the mid-winter in open trucks, the camp commander protested to WVHA, but department D ordered that further transports were to be continued and accepted. (*XI/17, Doc. NO-2125.*)

Albert Schwartz, who worked as a labor assignment leader at this camp made daily reports to office D II. He stated:

"I know, that many prisoners died and many others became unfit for work by the inadequate accommodation and nourishment and the lack of medical attendance. Amtsgruppe D and Amtsgruppe C were responsible for all these cases of death and horrible events. The Amtsgruppe D was responsible for the nourishment and accommodation of these prisoners while Amtsgruppe C was responsible for providing the necessary manpower in order to finish this building project within the stipulated time. * * * (*XI/17, Doc. NO-2125.*)

"According to an order of D III all prisoners provided for the transport were to be examined for their fitness to work by the camp doctor, therefore D III is responsible for the state of health of the prisoners on transport." (XI/18, Doc. NO-2125.)

Dr. Friedrich Entress, camp physician at Auschwitz, declared that the facilities of the concentration camp Auschwitz, which was subordinate to WVHA, were used for the execution of the extermination policy of the Reich Security Main Office. From these experiences and activities at Auschwitz, he accused the following of knowledge and participation in the gassings: the camp commander, his deputy, the labor allocation officer (subordinate to office D II), the camp physician (subordinate to office D III), chief of the administration (subordinate to office D IV), construction chief (subordinate to department C), and Pohl. (XXI/28, Doc. NO-2368.)

Further, that the garrison physician reported monthly on the progress of the medical experiments to Dr. Lolling, office D III. (XXI/28, Doc. NO-2368.)

Some idea of the amount of dental care given to the prisoners can be gained from the statement of Dr. Karl Abraham that he was the only dentist at Stutthof, which contained from 4,000 to 5,000 persons. He was subordinate to office D III. (XXI/34, Doc. NO-2127.)

In the beginning of 1942, Himmler began assigning manpower to the SS industries on a large scale, charging Pohl with the actual allocation of the inmates. In discharging this function he was to cooperate with Sauckel, Plenipotentiary for Labor, and Speer, Minister of Production.

August Frank was Pohl's deputy from 1 September 1942 to 1 August 1943. At the same time he functioned as chief of department A. Georg Loerner succeeded Frank as deputy chief of WVHA, and Fanslau, upon Frank's departure, inherited the chiefship of department A.

Prior to becoming deputy chief of WVHA, Georg Loerner was chief of department B, and in that capacity was responsible for the clothing and food requirements of the Waffen SS and the concentration camp inmates.

Department C was the chief construction office of the SS and it laid down the principles and guiding rules for SS construction. Department D calculated the total building material requirements for any particular construction business and made requisitions for such material from Speer of the armament industry.

The gas chambers and crematories of the Auschwitz concentration camp, built in 1943, came into existence through the

machinery just indicated. The accounts for these constructions were sent to office C VI for preliminary examination and then to the Supreme Auditing Court of the Reich. The actual details of allocation of concentration camp inmates to the industries were worked out by office D II. Departments B and C had branch agencies, both in the Reich and occupied territories.

The control of WVHA over concentration camps is evidenced to the last detail. A document dated 30 July 1943, authorized permit for a truck from Auschwitz to Dessau and back for the purpose of obtaining "zyklon". This authorization is signed by Gluecks, chief of department D, WVHA.

Another document dated 26 August 1942, from WVHA authorizes a truck to go to Dessau to obtain material to be used for a "special purpose."

Although the extermination program was fairly generally known, the writers of documents shied away from actually using the expression.

"Your request for a 5-ton truck with trailer to go to Dessau and back for the purpose of getting material for the transfer (Umsiedlung) of Jews is hereby approved."

The "transfer" meant permanent transfer from life to death.

Pohl dealt with Reich Bank director Emil Puhl on the matter of delivery of Action Reinhardt loot. On one occasion he visited the Reich Bank accompanied by Georg Loerner and August Frank. There he was shown the contents of the vaults by Emil Puhl, vice president, who said: "Well, your things are among them." On this matter Pohl specifically stated:

"Further details concerning the delivery of the concentration camp loot to the Reich Bank were worked out by my subordinates and the reports were squared by special Reich Bank and Amtsgruppe A personnel." (XXII/32, Doc. NO-2714.)

Pohl further stated:

"The first shipment of valuables of which I knew was made in the autumn of 1943. At this date there was no question as to the source of the material turned over to the Reich Bank. Generally speaking the loot realized from Action Reinhardt, as I learned later from Globocnik's final report and Vogt's auditing reports, consisted of a great variety of personal items such as gold teeth, rings, jewelry, and foreign currency. It was never doubted that this loot was taken from Jews exterminated in the concentration camps. The gold jewelry and foreign currency was to be placed on deposit for the Reich in the Reich Bank for the benefit of the German Reich." (XXII/32, Doc. NO-2714.)

Pohl knew from 1943 that gold teeth and crowns of concen-

tration camp inmates were broken out of their mouths after liquidation, melted down, and delivered to the Reich Bank. In 1944 he conferred with Funk, president of the Reich Bank, regarding the obtaining of uniforms for the Waffen SS. In support of his claim for these uniforms Pohl pointed out the great quantities of old clothes which the WVHA had turned over to the Reich—this old clothing represented the garments taken from exterminated Jews at Auschwitz and Lublin. Funk agreed with Pohl that in behalf of the Waffen SS he was entitled to privileged treatment on account of the delivery of the old clothes of the dead Jews.

Pohl sent one of his representatives (Sturmbannfuehrer Opperbeck) to Lublin to take over these enterprises acquired by Globocnik from the Jews. These enterprises were coordinated into a new company, Ostindustrie (OSTI) and placed under the command of staff W of the WVHA. (XXII/33, Doc. NO-2714.)

Upon the completion of Action Reinhardt all the concerns involved in this action were officially taken over by WVHA. Himmler wrote Pohl a letter expressly thanking him for his part in carrying out the economic side of Action Reinhardt. As in the extermination program, a degree of caution was always exercised in connection with the Action Reinhardt when it came to writing. Thus, though the meaning of Action Reinhardt was not much of a secret, yet when it came to depositing foreign currency taken from the slain Jews the account was made out in the name of one Max Heiliger, a fictitious person. (XXII/33, Doc. NO-2714.)

The involvement of WVHA in Action Reinhardt is complete. Pohl has spoken unequivocally of his arrangements with Himmler, Reich Bank President Funk, and Reich Bank Vice President Puhl, and Globocnik. Referring to the quantity involved, Pohl said, "There was a giant quantity of valuables, since the delivery continued for months and years." These articles, which have heretofore been partially enumerated were collected in the extermination camps, packed in crates, and sent to the WVHA in Berlin. (XXII/36, Doc. 4045-PS.)

Pohl was not niggardly with treasure taken from the slain Jews. On 6 November 1943, he wrote Brandt of Himmler's staff: "I intend to make a Yuletide gift to the units of the Waffen SS as indicated on the attached list from the *watches, wristwatches, and fountain pens* as listed on the same." (XXII/41, Doc. NO-2753.)

Himmler was quite pleased with Pohl's suggestion and added that 15,000 of the ladies watches should also be distributed as Christmas gifts among the German resettlers coming from Russia. (XXII/42, Doc. NO-2754.)

Still there should be a limit to this generosity, especially when a sizeable profit could be made on some of the items. “* * * the watches with the most precious Swiss works in pure gold and platinum cases, etc., and also pure golden fountain pens and propelling pencils have to be put at the disposal of the Reich Bank for sale abroad. The Reich Leader SS is of the opinion that also perhaps the stamp collections might be traded for foreign exchange.” (XXII/43, Doc. NO-2754.)

Pohl did not forget his own WVHA in this bonanza. He kept 500 of the clocks for distribution to the concentration camps to be used in the guard rooms. (XXII/44, Doc. NO-2755.)

Then there were 16 special gold precision wristwatches with stop devices and technical reading devices, each valued at 300 RM. Pohl had these watches overhauled by office D II at Oranienburg and sent them on to Himmler, who replied: “I shall use the watches as a special award for brave soldiers, who have distinguished themselves at the western or eastern front by destroying tanks or in other outstanding ways.” (XXII/46, Doc. NO-2749.)

All this was done on a high level of morality. Pohl declared on 4 July 1944, “As a matter of principle it has to be kept in mind that the entire Jewish property is to be incorporated into the Reich property.” He then outlines in detail how credits should be made up for the loot. (XXII/48, Doc. NO-3161.)

On 16 June 1944, Pohl attended a conference in Auschwitz regarding the construction work to be done there, the labor of course to be inmate supplied. Among the long list of items approved for construction we find:

“10. Three barracks for the emergency measure ‘Operation Jews’.

* * * * *

“16. Camouflage of the crematories, and security measures by constructing a second fence (the camouflage has to be effected by rush-mats which have to be obtained by the SS Standortverwaltung [SS garrison administration]).

“17. Construction of six mortuaries in Ba I and II.” (XXII/39, Doc. NO-2359.)

All camp commanders were nominated by the SS Personnel Office on Pohl’s recommendation and were appointed by him. Pohl has sought to place the blame for many concentration camp excesses exclusively on the commanders themselves as they had almost absolute power within their compounds, but since he was responsible for their appointment and could also dismiss them, he may not excuse himself entirely of these excesses when he was aware of their commission and could have prevented their con-

tinuation. Furthermore, as chief of the WVHA, Pohl was automatically chief judiciary officer for all men under the jurisdiction of the WVHA. The administrative positions numbered about 1,600. He was also chief judicial officer for all guards serving in the concentration camps whose number reached the figure of 30,000. As chief judicial officer he reviewed all judgments pronounced by the SS and Police court against the WVHA Police courts and camp guards.

Pohl visited the camps regularly on tours of inspection and thus could check on general conditions. Each month he received a survey on the population of the individual camps as well as the mortality rates.

The WVHA was the central administrative body for all concentration camps. As has been shown, it provided the clothing, the equipment, and supplies; it developed the construction program; it allocated the inmate labor; it operated the SS industries. It is inconceivable that the defendants, with several exceptions, could not have known what was transpiring in the concentration camps, even though their offices were not actually within the barbed wire enclosures. Knowing of the excesses and the crimes against humanity, were they in a position to prevent those excesses and to forestall the crimes against humanity?

ADJUDICATION

Mere knowledge of crime without the power to interfere carries no moral or legal condemnation. But knowledge of crime and participation in the system which makes that crime possible dissipates the concept of unblemished innocence.

That concentration camps were not nursing homes was common knowledge to the whole German population. It was also clear that the grim silence of the few who emerged from the barbed wire compounds before the end was not due to the ecstasy of their memories but to the numbness which goes with a horror beyond the mental or spiritual capacity to assimilate. Even before concentration and forced labor camps became so numerous, that they dotted Germany like poisonous toadstools, people knew of Dachau and spoke of it in the tone that mothers one time employed to frighten their children, as they hushedly spoke of the fiery domains of Lucifer. It would be stretching credulity to the point of reckless unconcern to assume that the very administrators of the concentration camp system did not know what was generally being said about it.

But it has been argued by the defendants that they were unaware of abuses in the camps and if perchance knowledge thereof

percolated into their ken, they were powerless to prevent such abuses. However, it was within their power to be less enthusiastic in their individual tasks which inevitably contributed to the final result, they could have displayed less zeal in plaiting the strand which formed the rope eventually destined to hang some hapless victim from Czechoslovakia or Denmark. The crux of the whole situation lay in the doctrine of Fuehrerprinzip. SS men were expected to weave without thought, and strike without aim or reflection. No one was to think, no one was to reflect, no one was to ponder, except Adolf Hitler. The nation that had produced such men as Humboldt, Kant, Goethe, and Gutenberg, now had but one brain and one guiding hand.

The common defense of the accused at the bar as to why they joined the NSDAP and the SS was that, following the First World War, Germany was in a state of political turmoil and economic disintegration, that a score of parties battled for power, and that chaos and disaster impended; that Hitler then came along and with a strong hand stabilized the country, established order, abolished unemployment, built roads, and gave Germany dignity and prestige before the world. Leaving aside for the moment what the German people may have thought about Hitler in those early days, and, even if he accomplished a part of the things attributed to him, forgetting for the moment the manner of accomplishment, the fact remains that there came a time when it was obvious to all those in Hitler's field of operation that he was leading the German people into ruin, destruction, disgrace, infinite misery, and sorrow. But no one, that is, practically no one, of his collaborators attempted to seize and render harmless the insane navigator, who was wildly propelling the ship of state toward rocks obvious to anyone not himself afflicted with the same mania.

The immediate coadjutors of Hitler were the SS. Theirs was the job of terrorizing, threatening, oppressing, and killing off all opposition and opponents. Hitler's second in command was the assassin Heinrich Himmler. Himmler headed the SS and laid down the policies of the concentration camps. It is simply unbelievable that if Himmler's co-workers and his immediate subordinates disapproved of his program of mass murder, pillage, thievery, kidnapping, torture, and diabolical destruction that they could not have done something about it. The truth of the matter is that each saw in the continuation of that program a benefit of some kind for himself, a higher rank, a gaudier uniform, an easier and more lucrative position, a bigger car, an increased authority, a longer strut, and a more numerous number of underlings to tremble before his greatness. Vanity, arrogance, and greed

were the vehicles in which the SS took the German population to the abyss.

The adjudication of the individual defendants in the present case appears in the majority opinion filed simultaneously with this opinion, but the adjudication of guilt of the philosophy and ideology behind concentration camps is something that lies with the German people. The world has condemned concentration camps, as civilization long ago proscribed human slavery. That civilization naturally includes the Teutonic race which has made no inconsiderable contribution to the progress of the human spirit in its eternal struggle toward emancipation from the forces of evil which have caused unhappiness since the world's beginning. What happened to Germany?

Not an unimportant result of these trials is the documentation they have produced in reestablishing the age-long truism that inevitable disaster awaits any nation which reposes irrevocable absolute power in the hands of one man. History has been writing to no purpose if it does not show over and over again that absolutism is a drink too potent for any person, without its warping his brain, rotting his conscience, and destroying all reflexes of responsibility to the donors of the bottle.

What must horrify the population of Germany today even more than the physical wreckage which strews their land is their reflection on the demoralization of spirit which caused supposedly intelligent and conscientious fellow nationals to swear the oath:

"I vow inviolable fidelity to Adolf Hitler; I vow absolute obedience to him and to the leaders he designates for me."

Each person who took this oath renounced his personality, repudiated his judgment, put aside his intelligence, and set himself adrift on the ocean of moral irresponsibility. Here was the root of the upas tree under whose branches the horrible crimes against humanity were committed. This oath explains how man, made in the image of his fellowman, tortured and slew him not because of any grievance against him, but because orders coming from Hitler and those appointed by him wished it. Thus the defendants in the present case did their own little or big job carefreedly, even though that job encompassed the drawing of plans for an extermination chamber, the purchasing of zyklon gas, or perhaps only the furnishing of zebra suits to concentration camp inmates. It was not the concern of the WVHA as to what happened at the end of the assembly line. Each member of this organization added his little bolt or twisted a little screw or turned the wheel of an insignificant lathe. It was not his responsibility as to what was done with the machine he was helping to fashion and create. The

concentration camps of Germany and occupied territories are the ignoble monuments to these bolt and nut-turners.

One of the purposes of the war crimes program is to let the German people see what miserable wretches and bankrupt souls were running and ruining their nation. One of the objects of the trials is to demonstrate that such an oath as above quoted, which makes no acknowledgment of a Supreme Being and which takes no account of responsibility to the people of the nation, is first a sacrilege and then a dastardly crime, in that it puts an engine of destruction into the uncontrolled hands of a maniac. This kind of an allegiance is no demonstration of the cardinal virtue of loyalty, it is the utter renunciation of reason and thought. It is also one of three other things: feeble-mindedness, guileful conspiracy, or the criminal negligence of one who indifferently casts a monkey wrench out of a high window into a crowded street below. One who puts into motion a train of circumstances which can only inevitably lead to the harm of others may not plead lack of intent to do harm.

One salubrious prospect in the Nuernberg scene is the opportunity it affords the German people to see what frauds their leaders were, what petty thieves they were, and more than all, what despoilers they were not only of the present but of the future.

There can be no doubt that the vast mass of the German people believed that once the war was ended, peace, prosperity, and all the tranquility and harmony of home life would return, never to depart. But we have seen from Himmler's Metz speech that the Nazis plans were to fight continuous wars, that each German family was to have at least four sons, so that allowing for two to be mangled in death on some distant shrapnel-torn battlefield, there would still be two left to transmit the name. This was the pleasant future that the criminal rulers of Germany were holding out for their homeland.

No democracy worthy of the name would have tolerated a Himmler. With his ugly and grotesque posturings as world conqueror a democratic people, with democratic processes would have laughed him out of public life. In a true democracy Hitler could not have been elected the second time to the position of dog catcher, but under the sheerly fantastic idea of the Fuehrerprinzip he could and did remain in power until, with his own hand he pushed himself into the grave no other German was able or willing to dig for him. And the German people who had given him obeisance never before accorded a modern ruler were reviled and cursed by him in those final days. And Himmler, the man who operated the concentration camps, who murdered millions of in-

nocents, and who had proclaimed death for those who even dared to *think* disloyalty to Hitler, in the end betrayed Hitler and set out to bargain with the Allies for his own life.

Had there been no Himmler and Hitler there would have been no concentration camps, and had the German people not given away their birthright of freedom and independence of spirit there could have been no Himmler and Hitler.

Amid her sorrow and wreckage, Germany has learned her lesson never to trust again those who would lead her to felicity over the corpses of decency, dignity, justice, and equality between man and man.

IX. RECONVENING OF MILITARY TRIBUNAL II FOR THE PURPOSE OF PERMITTING THE RECONSIDERATION OF ITS JUDGMENT

A. Introduction

On 7 June 1948, General Lucius D. Clay, the Military Governor, issued an order reconvening Military Tribunal II, "at the request of the judges constituting the Tribunal" and, "for the purpose of permitting such reconsideration and revision of its judgment as may be appropriate" in the Pohl case. The Tribunal reconvened in Nuernberg, and on 14 July 1948 issued an "Order Permitting Defendants to File Additional Briefs." The order reconvening the Tribunal and the order of the Tribunal permitting the filing of additional defense briefs are reproduced in B below.

B. Order of the Military Governor Reconvening Military Tribunal II and Order of the Tribunal Permitting Defendants to File Additional Briefs

HEADQUARTERS EUROPEAN COMMAND

GENERAL ORDERS }
No. 52 }

7 JUNE 1948

PURSUANT TO MILITARY GOVERNMENT ORDINANCE NO. 7

At the request of the judges constituting the Tribunal, Military Tribunal II as constituted by General Orders No. 85, Office of Military Government for Germany (U.S.), dated 16 December 1946, as amended by General Orders No. 5, same office, dated 21 January 1947, consisting of ROBERT M. TOMS, Presiding Judge, FITZROY D. PHILLIPS, Judge, MICHAEL A. MUSMANNO, Judge, and JOHN J. SPEIGHT, Alternate Judge, is hereby ordered to reconvene at Nurnberg, Germany, on or about 12 July 1948 for the purpose of permitting such reconsideration and revision of its judgment as may be appropriate in the case of United States of America *vs.* Pohl, et al. (Case No. 4).

BY COMMAND OF GENERAL CLAY:

C. R. HUEBNER
*Lieutenant General, GSC
Chief of Staff*

OFFICIAL:

[Signed] G. H. Garde
G. H. GARDE
Lieutenant Colonel, AGD
Assistant Adjutant General

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE,
NURNBERG, GERMANY
AT A SESSION OF MILITARY TRIBUNAL II
HELD 14 JULY 1948, IN CHAMBERS

The United States of America
vs.
Oswald Pohl, et al., Defendants.

Order Permitting Defendants to File Additional Briefs

Case No. 4

On 7 June 1948 General Lucius D. Clay, Military Governor of the U.S. Zone of Occupation, issued General Order No. 52, ordering this Tribunal to convene at Nurnberg, Germany, on or about 12 July 1948 for the purpose of permitting such reconsideration and revision of its judgment as may be appropriate in the case of United States of America *vs.* Oswald Pohl, et al., Case 4.

In pursuance of that order, Tribunal II has reconvened at the Palace of Justice in Nurnberg to carry out the mandate of the Military Governor.

The record in this case discloses that at the conclusion of the proofs, each defense counsel was allowed 1½ hours to present oral closing arguments with the exception of counsel for defendant Pohl, who was allowed 3 hours. The thoroughness with which the respective cases for the defendants were argued is shown by the number of typewritten pages of the several written arguments.

Oswald Pohl	152 pages
August Frank	79 pages
Georg Loerner	63 pages
Heinz Karl Fanslau	19 pages
Hans Loerner	18 pages
Erwin Tschentscher	56 pages
Max Kiefer	36 pages
Franz Eirenschmalz	50 pages
Karl Sommer	54 pages
Hermann Pook	22 pages

Hans Baier	41 pages
Hans Hohberg	63 pages
Leo Volk	55 pages
Karl Mummmenthey	33 pages
Hans Bobermin	55 pages
Josef Vogt	39 pages
Rudolf Scheide	43 pages
Horst Klein	31 pages

Total 909 pages

The transcript of the closing argument for the prosecution against all defendants comprises 73 pages.

The transcripts of these arguments were in the hands of the Tribunal at all times while considering its judgment and were given an attentive reading. These were considered in the nature of trial briefs.

The record also discloses (*Tr. p. 6253*) that on 15 August 1947 the Tribunal stated in open Court:

“This Tribunal does not need both a closing argument and a brief from either prosecution or defense. You say what you want in your closing argument. We will have a transcript of it, and we do not want a repetition of it in the way of a brief after that”.

Subsequent to the rendition of the judgment on 3 November 1947, each of the defendants found guilty therein filed petition and appeal with the Military Governor of the U.S. Zone of Occupation. In such petitions and appeals two of said defendants claimed that as to them the Tribunal had made use of briefs filed by the prosecution after the taking of proofs and oral arguments were concluded, in the preparation of its judgment. The remaining thirteen of the convicted defendants made no such claim. Two of the defendants, Pook and Klein, actually filed written briefs in reply to the prosecution briefs.

In conformity with the policy of the Tribunal to afford defense counsel every possible opportunity to present full and complete arguments in behalf of the defense, such counsel as wish to do so will now be permitted to prepare and submit briefs in reply to the prosecution's briefs. If, after fully considering such defense briefs, it should appear to the Tribunal that the judgment heretofore entered as to any defendant is not then supported by the evidence and that his guilt has not then been proved beyond a reasonable doubt, or that the sentence imposed is unjust, the Tribunal will thereupon vacate, modify, or amend the judgment now entered in accordance with the facts and the law as so determined.

It is understood, of course, that as to the defendants, Vogt, Scheide, and Klein, who were acquitted, this has no application. Having once been acquitted, they cannot be again put in jeopardy. It is further understood that this is not in any way a retrial of the case, but is merely a supplementary proceeding for the limited and specific purpose herein referred to. Defense counsel have heretofore received translations into German of the prosecution briefs. It is true also that the right to a review by the Military Governor of the original sentence and of any modified or amended sentence which may be hereafter entered remains intact and unimpaired. The Tribunal will receive and consider any briefs filed in conformity herewith, provided such briefs are in the hands of the translation division on or before Friday, 30 July 1948. The Tribunal will then await the translation into English of such briefs as soon thereafter as possible.

The Secretary General will direct the Marshal to immediately serve copies of this order on the respective defense counsel.

[Signed] ROBERT M. TOMS
Presiding Judge

[Signed] FITZROY D. PHILLIPS
Judge

[Signed] M. A. MUSMANNO
Judge

X. SUPPLEMENTAL JUDGMENT OF THE TRIBUNAL

As stated in the original judgment, the defendants were arraigned on 10 March 1947, and the taking of proof began on 8 April 1947. During 101 court sessions, terminating 22 September 1947, the prosecution offered in evidence 742 documents, and the defendants 614 documents. The transcript of the proof consisted of 8,048 pages, exclusive of the judgment. The transcript of the closing argument of the prosecution consists of 73 type-written pages. The transcript of the closing argument of the defense counsel includes the following:

Oswald Pohl	152 pages
August Frank	79 pages
Georg Loerner	63 pages
Heinz Karl Fanslau	19 pages
Hans Loerner	18 pages
Erwin Tschentscher	56 pages
Max Kiefer	36 pages
Franz Eirenschmalz	50 pages
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Karl Mummmenthey	33 pages
Hans Bobermin	55 pages
Josef Vogt	39 pages
Rudolf Scheide	43 pages
Horst Klein	31 pages
Total	909 pages

On 3 November 1947 the judgment was read in open Court and sentence imposed upon those defendants found guilty. Subsequently, counsel for the convicted defendants filed petitions with the Military Governor of the United States Zone of Occupation asking revision of the sentences under Article XVII(a) of Ordinance No. 7. In these petitions various reasons were given for revision of the judgment, including claims that the proof had not been properly evaluated by the Tribunal, that various exhibits had been misinterpreted, that findings of fact were not supported by the evidence, and that there was injustice in the disparity of sentences. Two defendants stated that in preparing the judg-

ment, the Tribunal had denied the defendants the right to answer prosecution's briefs filed against them. The Military Governor did not pass on the contentions of any of the defendants, but instead, at the request of the Tribunal, issued General Order No. 52, dated 7 June 1948, ordering it to reconvene on or about 12 July 1948, "for the purpose of permitting such reconsideration and revision of its judgment as may be appropriate." The Tribunal accordingly reconvened, and on 14 July 1948 entered an order reading in part as follows:

"In conformity with the policy of the Tribunal to afford defense counsel every possible opportunity to present full and complete arguments in behalf of the defense, such counsel as wish to do so will now be permitted to prepare and submit briefs in reply to the prosecution's briefs. If, after fully considering such defense briefs, it should appear to the Tribunal that the judgment heretofore entered as to any defendant is not then supported by the evidence and that his guilt has not then been proved beyond a reasonable doubt, or that the sentence imposed is unjust, the Tribunal will thereupon vacate, modify, or amend the judgment now entered in accordance with the facts and the law as so determined."

It will be observed that this order gave opportunity to all defendants to submit any arguments they wished, based on the record in the case. This completely removed any possibility of prejudice arising from the manner in which defendants claimed the original judgment had been prepared. It gave the defendants an unrestricted opportunity to supplement the 909 pages of defense argument already submitted with further briefs of any scope desired. In addition, the Tribunal ordered the return of all defendants to Nuernberg from the Landsberg prison so that their counsel could have free opportunity to consult with them.

It is the firm opinion of the Tribunal that this fulfilled every requirement of full and complete justice to the defendants, and gave them all the protection in their legal rights which could be asked.

Reconsideration of the evidence after judgment and new findings of fact based thereon are not new concepts in Anglo-Saxon Law. Motions for new trial, motions for rehearing, motions to reduce the verdict of a jury to conform to the proofs, and motions for judgment *non obstante veredicto* are familiar procedural steps in all courts. That is exactly what is being done in this case. No new or additional proof is being offered or received. The entire evidence heretofore received is being reexamined, and reanalyzed *de novo*, with the aid of additional defense arguments now submitted in briefs. The fact that a judicial conclusion was

reached in the original judgment does not preclude the Tribunal from reaching a different judicial conclusion, if, after further deliberation, with or without briefs, such conclusion appears just and appropriate. Judicial judgments are not immutable. If the original court or an appellate court in the interest of justice sees fit to modify them, the power and authority to do so, even on its own motion, is undoubted, with the possible limitation that no penalty fixed by the original judgment could be increased. Defense counsel have taken the strange position of objecting to a supplemental proceeding which could not be prejudicial and could be beneficial to their clients.

There is a constant strain prevalent in the defense in all of these cases. Throughout the entire organization of WVHA, there is a disclaimer of any authority to do anything which might be interpreted as culpable. To illustrate, the Tribunal sets out to examine operation Z which seems to have certain elements of criminality. From the table of organization, it appears that this operation pertains to office A. Upon further inquiry, the head of office A protests that he had no authority to conduct operation Z, and that if he signed or received any documents connected with it, he was merely a conduit between two other offices. Upon inquiry, those other offices also claim that while operation Z seems to come within their sphere of competence, actually such operation started in office B, and terminated in office C. A composite picture of these defenses would lead the Tribunal to the conclusion that no one in the entire organization had any real responsibility or authority, except for the most perfunctory and casual tasks. Somewhere within this complex and elaborate organization, there must have been sources of authority for launching and implementing important functions. Organizations of such size and importance are not inert. They are set up to get things done and to get them done quickly and efficiently, and in order to accomplish that end, definite broad authority must be delegated. But according to the contention of the defendants, no one in the organization had any authority to do anything important. Even Pohl, the chief of the WVHA, depreciates his own power almost to the vanishing point. He denies any control of Maurer and Gluecks and the Inspectorate of Concentration Camps, and takes the position that in most important respects, especially if they involve suspected criminality, he was merely a mouthpiece for Himmler. If this was the German conception of a chain of command, the whole chain was composed of fragile links, only strong enough to carry a very light load. The testimony of the defendants and the briefs of their counsel are replete with statements such as these:

"I did not have anything to do with the personnel of concentration camps. For this, there was a special personnel office within department D."

"It is true that I signed Exhibit X, but this letter was dictated by another."

"I did sign these orders of transfer, but they are really extracts from an order issued by the Main Office. I merely had to perform the subordinate function of passing on these excerpts."

"There were hardly any administrative tasks left which still needed to be dealt with."

"I had no insight into the activities of other departments."

"Nothing which had to do with administration proper belonged to his sphere of responsibility. There were other departments between him and the concentration camps which were responsible."

"It is correct, that on the plan of organization he appears as such, but no letter of appointment has been submitted."

These contentions, if true, go only to the *extent* of participation, by the several defendants. They serve, not as alibis, but as extenuating circumstances, at best. The most that they could do would be to exert a sort of centrifugal force in removing the defendant from the vortex of the criminal project toward, but not beyond, its perimeter.

In its original judgment the Tribunal indicated (*Tr. p. 8079*) that it "realized the necessity of guarding against assuming criminality, or even culpable responsibility, *solely* from the official titles which the several defendants held". This should not be interpreted to mean, however, that the fact that a defendant occupies an important organizational position is of no consequence and has no probative value. People are placed in high positions for the purpose of exercising authority and performing duties pertaining to that position. If a man is designated as a purchasing agent, it can be fairly assumed that his duties and powers pertain to the making of purchases. If a defendant is designated as head of an *Amtsgruppe*, it is logical to assume that this was done with a purpose and that he was expected and authorized to perform the functions of an *Amtsgruppe* chief, and not merely to occupy an office with no duties or responsibilities or authority.

Several defense counsel have urged the contention that other persons, more responsible than their clients, have not been indicted or tried, and one has even gone so far as to suggest that his client should not be tried or sentenced unless and until his superior officer has been indicted and tried and judgment entered against him, a situation which might never arise. This results in

the novel proposal that unless all suspects are accused, none should be indicted or tried. This would require the Tribunal to go far beyond its proper jurisdiction, and is, on the face of it, impossible. The sole province of the Tribunal is to judge those who are brought before it by the duly constituted prosecuting authorities who are entirely independent of the Tribunals. The judicial power does not extend to the institution or launching of criminal proceedings.

Defense counsel further urged that there is a noticeable disparity between the sentences imposed in comparable cases by the several Military Tribunals. They urged that even with respect to sentences imposed in cases concluded months after the judgment in this case was entered, some sort of uniformity should be achieved. To do this would involve deferring sentences in all cases until the last one had been tried, then reshuffling all the defendants into rough categories and imposing sentences by some undisclosed use of the law of averages. This strange and unique procedure is obviously impossible.

The burden of much of the defense briefs is that defense counsel disagree with the conclusions of the Tribunal drawn from the proof. As they did in their lengthy closing arguments, they repeat their concepts of the weight of the evidence and the credibility of the witnesses. Incriminating documents are met by the statement, "But the defendant denies this", or "the affidavit of witness X refutes this." Such a situation is, of course, typical of any judicial proceeding, but in the last analysis, it is the province of the Tribunal to determine the facts from conflicting proof. With the facts as so determined, it is to be expected that one side or the other will forever disagree.

Some defense counsel, including counsel for Georg Loerner, have undertaken to analyze the concurring opinion filed by Judge Musmanno and to dispute the conclusions therein. It is to be observed that this concurring opinion forms no part of the judgment of the Tribunal. It was filed by Judge Musmanno for the purpose of recording for historical purposes a complete story of the concentration camps. It was not read into the record on 3 November 1947 at the time of the rendition of the judgment, and was not read or considered by the other judges prior to that date. The Tribunal, therefore, has not considered statements in defense briefs dealing with this concurring opinion.

Some of the defense briefs have been presented with several affidavits attached, purporting to give factual support to the contentions in the briefs. These affidavits cannot be received as an extension of the proofs in the case. They have never been offered or received in evidence, nor has the prosecution had any oppor-

tunity to cross-examine the affiants or submit counter affidavits or other impeaching proof. The Tribunal has clearly stated that it would review the record as it stood on 22 September 1947 when the prosecution and the defense rested their cases.

POHL

An elaborate and complex operation, such as the deportation and extermination of the Jews and the appropriation of all their property, is obviously a task for more than one man. Launching or promulgating such a program may originate in the mind of one man or a group of men. Working out the details of the plan may fall to another. Procurement of personnel and the issuing of actual operational orders may fall to others. The actual execution of the plan in the field involves the operation of another, or it may be several other persons or groups. Marshaling and distributing the loot, or allocating the victims, is another phase of the operation which may be entrusted to an individual or a group far removed from the original planners. As may be expected, we find the various participants in the program tossing the shuttlecock of responsibility from one to the other. The originator says: "It is true that I thought of the program, but I did not carry it out." The next in line says: "It is true I laid the plan out on paper and designated the *modus operandi*, but it was not my plan, and I did not actually carry it out." The third in line says: "It is true I shot people, but I was merely carrying out orders from above." The next in line says: "It is true that I received the loot from this program and inventoried it and disposed of it, but I did not steal it nor kill the owners of it. I was only carrying out orders from a higher level." To invoke a parallelism, let us assume that four men are charged with robbing a bank. The first makes a preliminary observation, draws a ground sketch of the bank and of the best means of escape. The second drives the others to the bank at the time of the robbery and spirits them away after its completion. The third actually enters the bank and at the point of a gun steals the money. The fourth undertakes to hide or dispose of the loot, with knowledge of its origin. Under these circumstances, the acts of any one of the four, within the scope of the over-all plan, become the acts of all the others. Control Council Law No. 10 recognizes this principle of confederacy when it provides in Article II paragraph 2 "any person * * * is deemed to have committed a crime as defined in paragraph 1 of this Article, if he was (a) a principal or (b) was an accessory to the commission of any such crime or ordered or abetted the same or (c) took a consenting part therein or (d) was connected with plans

or enterprises involving its commission * * *." Typical of the attitude of the defendant is this statement in the brief filed 26 July 1948 on behalf of Pohl:

"Neither Pohl nor the WVHA had any decisive part in the organization of the liquidation of Jewish property. Neither Pohl nor the WVHA played any part in the execution of this liquidation but that their participation was limited to the duty of delivery ordered by the Reich Government, as far as valuables came to hand within the sphere of the WVHA."

In order for Pohl to have been criminally liable for the liquidation of the Jews and the appropriation of their property, it was not necessary for him to have had a decisive part in formulating the original plan, nor in carrying it out later. It would be sufficient to inculcate him, if he was an accessory to or abetted the criminal program or took a consenting part therein or was connected with plans or enterprises involving its commission. This could occur at any point in the course of the program.

Counsel for Pohl, in his closing argument, urged that Himmler's order to tear down the Warsaw ghetto was addressed to the Higher SS and Police Leader in Krakow, and not to the defendant Oswald Pohl, who was merely ordered (*NO-2494, Pros. Ex. 501*) "to have the prisoners collect and salvage the millions of bricks, the scrap iron, and other materials of the former ghetto."

The evacuation of the Jews from the Warsaw ghetto was accomplished by Stroop through the use of military force between 19 April and 16 May 1943. Six months before that, Himmler had ordered that all the Jewish workers in the ghetto "are to be gathered together in concentration camps on the spot, that is in Warsaw and Lublin, by SS Obergruppenfuehrer Krueger and Pohl." This was the document (*NO-1611, Pros. Ex. 498*) in which Himmler stated:

"Of course, there, too, the Jews shall some day disappear, in accordance with the Fuehrer's wishes."

It thus appears that at the very inception of the Warsaw operation, Pohl was made an active participant by Himmler's order, with definite duties and responsibilities. The document shows that Pohl's name is the first on the distribution list.

In January 1943, 3 months before the violent evacuation program was launched by Stroop, Himmler wrote to Krueger complaining that his evacuation program was not being carried out with sufficient speed to suit him and ordering the immediate transfer of 16,000 Jews to a concentration camp at Lublin. Pohl's name appears on the distribution list of this letter (*NO-1882, Pros. Ex. 499*).

On 16 February 1943, two months before the program of

demolition was inaugurated by Stroop, Himmler wrote directly to Pohl, with a copy to Krueger (*NO-2514, Pros. Ex. 500*) as follows:

“(1) I am giving the order to establish an *X concentration camp in the ghetto of Warsaw.*

(2) All Jews living in Warsaw are to be transferred to this concentration camp; Jews are not permitted to work in privately owned enterprises.

(3) The former privately owned enterprises in the ghetto of Warsaw are being taken over by the concentration camp (Reich enterprise).

(4) The concentration camp Warsaw as a whole, including its enterprises and its inmates, is to be transferred to Lublin and its surroundings as quickly as possible, but in such a way that production does not suffer.”

From these documents, it appears conclusively that Pohl was by no means a mere salvage contractor who was brought in to clear up the rubble after the destruction of the ghetto had been accomplished. The establishment of concentration camps, the elimination of private Jewish firms, the displacement and transfer of the entire Jewish population of the ghetto, of which Pohl had notice and in which he was ordered to participate and cooperate, are all antecedent to his final task of razing the buildings in the ghetto. In July, Pohl reported to Himmler that he had appointed Goecke as commandant of the new concentration camp established by Himmler's order in the Warsaw ghetto, and pledges the closest collaboration with Stroop.

The contention of Pohl that his only participation in the Warsaw program was to clean up the rubble, after the demolition had been accomplished by others not connected with him, is incontrovertibly refuted by these exhibits.

Counsel for Pohl takes exception to the phrase in the judgment, “great industrial empire” (*Tr. p. 8080*). This empire, he contends, consisted of the Deutsche Erd- und Steinwerke (DEST), the Deutsche Ausruestungswerke (DAW) and about 35 medium sized plants, employing less than 40,000 workers. In his closing argument (p. 148), counsel states that this activity involved the administration by WVHA of 13 concentration camps and about 500 labor camps. In his brief he states that in the last half of 1944, there were 12 concentration camps and 504 labor camps, in which 650,000-700,000 prisoners were employed. The Tribunal feels that the phrase “great industrial empire” is not a misnomer as applied to enterprises of this scope and magnitude.

On transcript page 8082 of the original judgment, the Tribunal stated:

"As chief judicial officer of the SS, he had full disciplinary power over all guards who served in the concentration camps. All judgments arising in disciplinary proceedings against SS guards were submitted to Pohl for modification or confirmation."

This is an error. Pohl's authority to judicially review disciplinary measures was confined to the personnel of WVHA and did not extend to the concentration camp guards.

Pohl's counsel argues that the "primary criterion of any responsibility is the authority to punish," and that Pohl had no such authority over concentration camp commanders or guards. The conclusive answer to this is that the criterion of responsibility in this case has been fixed by Article II, paragraph 2, of Control Council Law No. 10, to which reference has been repeatedly made herein.

"In this military set-up there was no room for an administrative official to cooperate by issuing orders", counsel suggests. But Pohl *made* room. In R-129, Pros. Ex. 40, signed by Pohl (not "by order"), he signed a document which he designates as an order, addressed to chief of department [Amtsgruppe] D (Maurer) and *all camp commanders* and work managers, defining the policy in concentration camps and the responsibilities of commanders and work managers, requiring that work must be exhaustive, that working hours are to be fixed by camp commanders and that "sentries on horseback, watch dogs, movable watch towers, and movable obstacles are to be developed." In NO-1290, Pros. Ex. 60, Pohl orders that the working hours of prisoners be kept at 11 hours daily, 6 days per week, with a half day on Sunday. This order is addressed to all concentration camp commandants. In Document NO-1245, Pros. Ex. 89, Pohl orders all camp commanders to maintain closer supervision by guards and to forbid conversation or contact with inmates. In NO-1544, Pros. Ex. 137, Pohl ordered each noncommissioned officer and guard to make loafing prisoners work. The number of such instances could be multiplied, but these are sufficient to show that Pohl found ample room, even as an administrative officer, to issue orders concerning the operation of concentration camps.

Counsel states in his brief (p. 17) :

"The securing and allocation of workers for the armament industry was examined by the Reich Ministry for Armament and War Production and was subject to direct approval. It was not possible within the framework of this planned economy that Pohl on his own responsibility could allocate workers from the concentration camps to the armament industries."

The record is replete with proof that the defendant Sommer,

head of Amt D II (inmate labor commitments) was charged with filling requisitions for labor from the concentration camps. We recognize that neither Pohl nor Sommer were charged with labor procurement. That was the task of Sauckel and the Secret Police. Nor did Pohl or Sommer initiate requisitions for labor. But when a request for 1,000 laborers for Mauthausen or Auschwitz came into WVHA, through the Reich Ministry for Armament and War Production, Sommer, as Pohl's subordinate in Amt D II, filled the order and through him the required number of inmates was assigned. No juggling of words can make anything of this except "allocation of workers for the armament industry." As a striking example of inconsistency, compare this statement in defendants brief (p. 20):

"This measure (the appointment of Sauckel as Plenipotentiary General for Labor Allocation) by Hitler also forced Himmler to remove the labor allocation of concentration camp inmates from the general jurisdiction of the Inspectorate of Concentration Camps and, by transferring it as a special task to the chief of WVHA (Pohl) as the proper authority, raise it to the ministerial level."

Let us look at them vis-à-vis (p. 17): It was not possible that Pohl could allocate workers to the armament industries (p. 20). Himmler removed the labor allocation of inmates from the Inspectorate and transferred it to Pohl on a ministerial level. To these may be added a third inconsistent position (p. 21):

"* * * it was Pohl's duty to supervise the smooth execution of all orders. The cooperation of all those engaged in this special task was the prerequisite for success."

That is exactly what the Tribunal has stated and restated many times. That is exactly what Control Council Law No. 10 referred to in Article II, Paragraph 2. It was Pohl's "supervision of the smooth execution" of criminal orders that makes his "prerequisite cooperation" criminal.

Much point has been made of Pohl's alleged mental and physical condition, arising from claimed brow beating and abuse, at the time he signed the numerous affidavits which were submitted in evidence. The evidence of such abuse is insinuated into this case by quoting from Pohl's testimony in Case No. 2 before another Tribunal more than 6 months after rendition of the judgment in this case. Each of the several affidavits signed by Pohl contained immediately before his signature the following statement:

"I have read the above statement consisting of 3 (three) pages in the German language and declare that this is the full truth according to my best knowledge and belief. I have had the opportunity to make alterations and corrections in the above

statement. I have made this statement of my own free will without any promises of reward whatsoever and I was not subjected to any kind of threat."

This repeated affirmation by Pohl makes the Tribunal somewhat skeptical of the tale of the effect of claimed abuse on a "highly emotional and sensitive person" (p. 25) like himself, but passing that, if every affidavit of Pohl was deleted from the record or had never been offered in evidence, the tremendous volume of credible proof remaining would be more than ample to establish his guilt of the crimes of which he was convicted. It would be equivalent to removing a bushel of sand from a carload.

The comments of Pohl's counsel on the concurring opinion filed by Judge Musmanno have already been answered herein. It would be useless to repeat or elaborate upon them here. It is pertinent to conclude by stating that the prosecution never filed a closing brief as to the defendant Pohl, but rested upon its final argument in open Court on 22 September 1947.

After a careful review of the entire evidence and a thorough study of defense counsel's brief, the Tribunal is of the opinion that no reason has been disclosed for modifying or amending the judgment entered on 3 November 1947 as to the defendant Pohl and said judgment is accordingly affirmed in all respects including the sentence imposed thereunder.

FRANK

Counsel for defendant Frank states in his brief (p. 2): "All important factors which had any bearing on the trial as it stood at the time of the pronouncement of the judgment were taken into account at the time of my final plea (argument)". He, therefore, "considers it useless and superfluous if I am to be limited * * * to a reply to the prosecution closing brief", unless a complete new trial is held, the record reopened and further proof taken. In order to keep an anchor to windward, however, he says, "I nevertheless submit to the Court at this stage a preliminary review showing how I *should* present the case of my client in the event of a full resumption of the case." Under this statement, the Tribunal would be justified in foregoing any reconsideration of the judgment in Frank's case, but the Tribunal has no inclination to be technical, and will, therefore, carefully consider the arguments which counsel so grudgingly offers (or would offer) in Frank's behalf.

Counsel constantly refers to matters outside the record in this case. He quotes from testimony given in trials of other cases before other Tribunals, offered long after the judgment in this case was delivered. Sometimes he paraphrases, sometimes he

quotes brief excerpts. He quotes from a decree (*NO-4905, Pros. Ex. 2452*) of the Reich Ministry of Finance introduced in evidence in Case No. 11 * and published in the Reich Law Gazette, in which the confiscation of the property of the Jews was delegated to fourteen Senior Finance Presidents, who, with the Gestapo, "removed and utilized * * * billions worth of property." He states that only one of these Senior Finance Presidents has ever been brought to trial, and that another even acted as President of a denazification court. He quotes a New York newspaper which states that the Army of Occupation "amassed booty * * * exceeding a total value of one billion dollars." What is the purpose of injecting these impertinent statements in his brief? They certainly do not rise to the dignity of proof, and in any event have not the remotest relation to the issue before the Tribunal in this case.

Frank's counsel states that "Frank's position as official group chief was purely administrative * * *. He could not give even the least executive order." We presume the emphasis is on the word "executive", meaning an order for which he was the original authoritative source. In an organization such as the WVHA, the difference between executive orders and implementing orders is one of degree only. Executive orders are not self-executing. They require the efforts of perhaps a number of intermediaries to make them effective. This point has been more elaborately discussed elsewhere in this supplemental judgment. That Frank was one of the most active of these intermediaries is shown by his own testimony that "he signed thousands of orders in nineteen months". His counsel follows this with this incredible non-sequitur: "There is no more convincing evidence that Frank had no official contact with the concentration camps." The theory of Frank's defense is epitomized in this statement in his brief: "Himmler issued instructions for the handing over (seizure) of valuables, Globocnik confiscated the valuables as prescribed by (German) law. The Reich Bank received the valuables for the credit of the Reich * * * . Frank was neither the instigator, the chief nor the beneficiary." Counsel deftly skips over Frank's place in this program. There were many steps and many actors between Himmler and Globocnik and between Globocnik and Puhl. Some steps were vital, some were merely auxiliary (or, as has been said, administrative). Some actors were primary, others were subordinate. But all served to keep the program moving smoothly and efficiently. In this coordinated movement, Frank had his place and it was not an insignificant one.

* U. S. A. vs. Ernst von Weizsaecker, et al., vols. XII, XIII & XIV.

The provisions of Article II, paragraph 2, of Control Council Law No. 10, are clear and unambiguous. It enumerates, in a descending scale of culpability, the persons who are deemed to have committed crimes:

- (1) Principals.
- (2) Accessories or abettors.
- (3) Persons taking a consenting part.
- (4) Persons connected with plans or enterprises involving its commission.
- (5) Members of certain organizations or groups.
- (6) Holders of high political, civil, or military positions.

The burden of most of the defense briefs is that the defendants do not come within class 1, so Q.E.D., they are innocent. That is exactly the position taken by counsel for Frank, as indicated by his argument quoted above. Of course, he was "removed" from the fountain head of the criminal project but not removed far enough to escape implication in it. Much time and language has been spent in these trials in ingenious attempts to distort or evade the plain meaning of the clear language of Control Council Law No. 10, especially Article II, paragraph 2. Frank's efforts to do this are futile.

After a careful review of the entire evidence and a thorough study of defense counsel's brief, the Tribunal is of the opinion that no reason has been disclosed for modifying or amending the judgment entered on 3 November 1947 as to the defendant Frank and said judgment is accordingly affirmed in all respects including the sentence imposed thereunder.

GEORG LOERNER

On behalf of the defendant Georg Loerner, it is claimed that Document NO-2147, Pros. Ex. 30, designated as a report of Georg Loerner and others to Pohl, which was referred to in the original judgment as a "significant document", was not, in fact, signed by Loerner. This contention is correct, but it must be stated that in the English translation of this document contained in document book 2, page 46, the document purports to have been signed by Loerner, and his typed signature appears at the end of the translated document. This exhibit was admitted in evidence without objection, and the only form in which it came to the Tribunal was translated into English in document book 2. It was only after the judgment had been entered that attention was called by defense counsel to the fact that the original German document

bore the signature of Kammler instead of Loerner, a fact which it was impossible for the Tribunal to know before writing the judgment.

If this document constituted the only proof against Loerner, his guilt would, of course, not be established, but even after discarding this document as we do, there remains an overwhelming quantum of evidence which is amply sufficient to establish his guilt. Had the Tribunal never seen Document NO-2417, Pros. Ex. 30, it would nevertheless have arrived at the same conclusion.

Counsel for Loerner insists that Document NO-1990, Pros. Ex. 73, referred to in the original judgment (*Tr. p. 8118*), and which is a report from Burger of Office D IV to Loerner stating that over 600,000 additional prisoners from the East were expected immediately for confinement in concentration camps, proves nothing, because the 600,000 prisoners never actually arrived, but only a small percentage of them actually reached concentration camps. Counsel for defense entirely misconceives the significance of this exhibit. The size of the group of anticipated arrivals may mean little, but the fact that there was included in the list former Polish officers, advised Loerner of the fact that it was common practice to commit prisoners of war to concentration camps to be employed in war work. Leaving out all figures from this exhibit, it was sufficient to inform Loerner of this unlawful practice, and the fact that Burger felt obliged to report to Loerner on this subject fixes Loerner's responsibility as a participant.

Loerner's counsel contends now (but not at the trial) that this letter was merely a subterfuge, with fictitious figures used, to assist Loerner in securing larger allotments of clothing and raw materials for the slaves and prisoners of war who actually *were* in the concentration camps. If that was its purpose, the motive cannot be condemned, but it conclusively shows Loerner's knowledge of the fact of slave labor. He knew there were *some* slaves in the camps, even if less than 600,000, and that it was his task to procure clothing for them. How can it be said that this did not constitute a "consenting part" in the crime of enslavement? Was he not "connected with a plan and enterprise" involving enslavement?

Some testimony was offered from which it might be inferred that Loerner was responsible for the furnishing of food to the concentration camp guards and inmates. This testimony was later repudiated or explained by the witnesses who offered it, and the Tribunal now places no reliance upon it. The Tribunal now finds that Loerner was not responsible for the furnishing of food

to the inmates, but that this was done by the camp commanders from local civilian sources through the channel of Amtsgruppe D and the Reich Food Ministry. It remains true, however, that as stated in the original judgment (*Tr. pp. 8119, 8120*), Loerner did have the duty and responsibility of procuring and supplying clothing and raw material for the manufacture of clothing. Finished articles were distributed from the supply point at Ravensbrueck and raw material was fabricated at Dachau. It is true, as contended by Defense Counsel, that Loerner did not have the responsibility for *distributing* clothing to the concentration camps, but he was charged with keeping up the supply of clothing and raw material in the warehouses from which distribution was made.

Defense counsel contends that although Georg Loerner was appointed as Pohl's deputy, there was no documentary proof that he ever actually functioned in that capacity. He quotes Pohl as testifying that Loerner's appointment was "only a formality in order that a deputy might be at hand." This is specious reasoning. This is equivalent to saying that a man holding the office of fire chief was really not such, because he never attended a fire. The fact remains that by reason of his appointment, Loerner stood high in the councils of WVHA, ready to act as Pohl's deputy should the need arise. The fact that he was clothed with the authority fixes his status, even though the proof discloses no occasion when he exercised his authority.

An attempt has been made to play down and minimize Loerner's connection with the W enterprises. Defense counsel states:

"No proof has been furnished that Georg Loerner's connections with these companies were anything more than formal and that he was more than a straw-man in Pohl's hands, nor that he gave advice to which attention was paid. Only a few records of meetings have been cited in which he participated. However, it has not been proved that he made any suggestions in any of these meetings."

It is useless to try to make of Loerner the mute and servile pygmy which counsel portrays. It is interesting to note that Frank, who, with Loerner, was one of the two original incorporators of the Textil and Lederwertung in June 1940, also attempts to assume the same unimportant and humble role as Loerner in the organization of this company which employed inmate labor at Dachau, Ravensbrueck, and Oranienburg. This would imply that neither of the original incorporators of this large concern ranked much higher than an office boy or a messenger. The record refutes any such conclusion beyond any doubt. Counsel urges that Loerner was merely a member of the Auf-

sichtsrat of the Cooperative House and Home Building Company, a firm which was incorporated into WVHA "in organization, personnel and business matters."

The Aufsichtsrat is defined by Tribunal VI in Case No. 6 as follows:

"This body was in the nature of a supervisory board, somewhat comparable functionally, to those members of a board of directors of an American corporation who are not on the executive committee and who do not actively participate in the management of the business. Under German Law the Aufsichtsrat elected and removed members of the Vorstand, called special meetings of the stockholders, and had the right to examine and audit the books and accounts of the firm."

Whether or not one chooses to define Loerner's participation in this enterprise as merely formal or on a low level, the fact remains clear that he was in the front office and part and parcel of the executive group.

Counsel discusses Document NO-2133, Pros. Ex. 387, book 14, which is a letter from Maurer to several office chiefs, with copies to Loerner and Gluecks, as counsel states "for their information." That is exactly the point. As early as 24 January 1942, shortly before the organization of WVHA, Loerner was informed that land was to be purchased and a concentration camp housing 25,000 inmates was to be constructed at Stutthof. The acquisition of the land fell within Loerner's province as head of the legal division of Main Department I/2. Thus he had early knowledge of the existence, and at least partially, of the scope of the system of concentration camps. This early knowledge is only one factor in his guilt. Standing alone it is not enough, but it is a piece in the mosaic which *in toto* spells slavery.

After a careful review of the entire record in the case and a thorough consideration of the final arguments of defense counsel and briefs filed supplemental thereto, the Tribunal is of the opinion that the judgment of guilty under counts two, three and four of the indictment as determined on 3 November 1947 should be affirmed. A certain disparity, however, which might be claimed to be unjust is found in a comparison of the sentences imposed upon defendants Georg Loerner and August Frank. The similarity in length of service with WVHA, and as deputy to Pohl, a consideration of their respective ranks, and of the counts on which they were found guilty convinces the Tribunal that the sentence imposed upon Georg Loerner as announced in the original judgment on 3 November 1947 should, in the interest of justice, be modified. Although Georg Loerner was designated as deputy to Pohl, the record discloses no occasion on which he actually

fuctioned in that capacity and no document signed by him as such deputy has been disclosed.

The judgment of guilty under counts two, three and four as set forth in the original judgment of 3 November 1947 is hereby in all respects affirmed. The sentence imposed on the defendant Georg Loerner on said date will be modified and amended as hereinafter provided.

FANSLAU

Counsel for this defendant insists that the Tribunal, in its original judgment, misconceived the import of Documents NO-4560, Pros. Ex. 716 and NO-4505, Pros. Ex. 720 in stating that he (Fanslau) personally signed orders transferring camp commanders (*Tr. p. 8105*).

Document NO-4560, Pros. Ex. 716 states in part "Sturmbannfuehrer Max Pauly, hitherto concentration camp Stutthof commander, is transferred to concentration camp Neuengamme as camp commander." This exhibit is signed by the defendant Fanslau as chief of the personnel office.

Document NO-4505, Pros. Ex. 720 states "SS Obersturmbannfuehrer Erich Schellin * * * is, effective 1 August 1942, transferred to the Higher SS and Police Leader East Krakow as SS Economist." This exhibit also is signed by Fanslau as chief of the personnel office.

The Tribunal recognizes, and at the time of writing the original judgment also recognized, that these exhibits should be considered in connection with Documents NO-020a, Pros. Ex. 81 and NO-2128, Pros. Ex. 331, the underlying orders of Pohl for the reassignment and detachment of certain camp commanders, which were merely implemented by Fanslau in Documents NO-4560, Pros. Ex. 716 and NO-4505, Pros. Ex. 720. The Tribunal was, and is, aware that in signing these orders, Fanslau did not exercise original authority, but the statement in the original judgment that "he personally signed orders transferring camp commanders" is borne out by the documents, and is true. On this basis, it is undoubtedly true that Fanslau was a proximate participant in the process of transferring concentration camp commanders. Assuming that he was not the initiator, nevertheless he was the instrument used by Pohl to make such transfers effective.

In his appeal to the Military Governor, Fanslau states that he "could only draw the conclusion that the labor allocation aimed at training asocial elements for work and preparing them for their reinstatement into the human society." Assuming that the concentration camps furnished a convenient place of imprison-

ment for these asocial persons who dared to dissent from the Nazi policy of tyranny and oppression, and who might be considered a source of danger within the Reich, certainly no person could be so naive as to believe that this was the only group confined in concentration camps. This specious brand of exculpation cannot be accepted, nor can it be believed that a man in Fanslau's position to know was unaware that the concentration camps also contained uncounted thousands of men, women, and children from the Eastern territories who had been abducted from their homes by force and herded into concentration camps to be worked to death for the German war machine. Can Fanslau claim with any sincerity that he did not know of Ravensbrueck, where thousands of women and children were confined? Can he with any degree of honesty claim that these women and children constituted asocial elements who were being prepared for their reinstatement into the human society? This Tribunal would be credulous indeed to arrive at such a conclusion.

In stressing his contention that the duties of the several Aemter in WVHA were completely separated and that no connection or common responsibility existed among them, counsel for Fanslau uses an interesting but inapt illustration. He says:

"If one assumes that the entire administrative work carried out by the SS in the Economic Administrative Main Office corresponds to the building of a house, it becomes clear that different worksmen are entrusted with different tasks:

The bricklayer builds the walls, the slater completes the roof, the plumber the sanitary fittings, the electrician the electric installations, the carpenter the windows and doors etc. Thus, if after the conclusion of the building or during the construction a faulty part is detected somewhere in the house, only the person who has built this part of the house can be made responsible for this fault, and not another person who was employed in a heterogeneous job on the same house. Thus, for a fault in the roof the slater, for a fault in the electrical installation the electrician will be responsible. Besides that only the architect supervising the building of the house could be made responsible."

There was nothing wrong with the planning or construction of the house of WVHA. It was skillfully planned and expertly constructed. It was a good house, but it sheltered criminal activities. It is the use to which it was put that was wicked. A noble cathedral may be the rendezvous of thieves and kidnappers and counterfeiters. WVHA was not a group of detached cottages. It was a single edifice but with many connecting rooms, and the corridors and halls between them were thronged with busy men, all hurry-

ing on the business of their common master—Himmler. The Tribunal finds no reason to retract or modify its statement on this subject in the original judgment (*Tr. p. 8096 et seq.*).

Defense counsel raises the point that "Fanslau is responsible within the framework of troop administration only * * * but which is not liable to punishment." He reminds the Tribunal that administrative office heads of the Reich Security Office, the Wehrmacht, the Luftwaffe, and the navy have not been accused or convicted of crimes against international law. Let us repeat what has been so often said before. Fanslau has not been condemned because he was a military officer or because he ministered to the needs of the troops. His crime consists in using his position as an SS officer in WVHA to aid and abet a Nazi-sponsored system of slavery, spoliation, and looting. Field Marshal Milch, who was convicted by this Tribunal in Case No. 2, was not condemned because he was a field marshal and second in command of the Luftwaffe, but because in that capacity he participated in war crimes and crimes against humanity.

Fanslau's claim that as chief of Amt A V, the personnel office, his only function was to "replace administration officers for the paymaster service for Amtsgruppe D to be employed in the concentration camps" and involved only 5 or 6 men, finds no credible support in the record in this case. The claim that in signing (not promulgating) orders for the transfer of camp commanders, Fanslau was merely certifying to the correctness of an order of the Personnel Main Office has been sufficiently discussed and disposed of in this judgment under Frank's case. It need not be re-examined here. The Tribunal cannot accept the conclusion that the chief of Amt A V and later the chief of Amtsgruppe A was merely a stenographer, and his high position and official acts belie such a menial classification.

HANS LOERNER

With reference to Loerner's budget duties and activities as head of Amt A I and A II (*NO-2672, Pros. Ex. 36*), the Tribunal in its original judgment (*Tr. p. 8108*) stated:

"In connection with the concentration camps, Kaindl, and later Burger of Amt D IV, concentration camp administration, assembled the budget items for the concentration camps and passed them on as part of the entire budget of the Waffen SS to Loerner in Amtsgruppe A, who reviewed it and put it in shape to be transmitted to the Main Department of Finance in Berlin."

A careful review of the record convinces the Tribunal that this statement is accurate and true. Requests for money appropria-

tions for the concentration camps originated in the camps were sent by the camp commanders to Amtsgruppe D of WVHA. These requests, together with those from other activities of the SS, were then forwarded to Amt A I of which the defendant Loerner was chief. Loerner thereupon assembled all the budgets so forwarded to him and transmitted this entire budget of the Waffen SS to the Main Department of Finance in Berlin. The Tribunal did not and does not assume or find that Loerner had any authority to promulgate a budget, to raise it, or lower it, or to deny or allow it, and nothing in the original judgment implies any such finding. The testimony of Loerner's codefendant, Pohl, who was the chief of the entire WVHA and who must be presumed to know something of the powers and duties of his subordinates, states in part as follows (*Tr. p. 1880*):

"Office group A put together the whole of the budget by listing together the various contributions * * *. The administrative office of the Inspectorate, that is office D IV, put together the budget for all concentration camps and then passed it on as part of a whole budget of the Waffen SS to office group A, which then put together the entire budget."

There appears to be no substantial dispute as to this method of procedure, but counsel for Loerner disagrees, as is his privilege, with the conclusions which the Tribunal has drawn as to Loerner's culpability arising from these facts.

It is to be observed that the Tribunal in the original judgment (*Tr. p. 8107*) recognized Loerner's contention concerning the adoption of the open budget and its effect on his duties and responsibilities. It cannot be claimed that the Tribunal ignored this fact in reaching its conclusions.

A comparison between the case of Schwarzenberger, who was acquitted in Case No. 8, and Loerner, who was convicted in Case No. 4 is emphasized by Loerner's counsel. In his argument in Case No. 8, the prosecutor said:

"Loerner and Schwarzenberger joined the SS about the same time. Both served as administrative officers until August 1939, when both went into the army for a short time. Both were later transferred from the army to administrative positions. Loerner attained the rank of lieutenant colonel; Schwarzenberger that of colonel. Both were budget and finance officers. Both were administrative officers. Both participated in a criminal program."

Some similarity between the two men as to rank and function must be conceded, but it must be observed that the facts in no two cases are identical. Similarities may exist to a greater or lesser degree, but not absolute identity. Nor is it possible to assure

entire unanimity in the findings of separate Tribunals. Disparity in conclusions, or findings of fact, may result from the disparity in emphasis which separate Tribunals may accord to the evidence. A single document may in the opinion of one Tribunal assume controlling force, and in the opinion of another Tribunal be given lesser weight. One Tribunal may find the testimony of one witness true, and another Tribunal may discredit it. In appraising the preponderance of the proof for and against the defendant, one Tribunal may find the scales to be tipped in one direction and another Tribunal in the other. This factor is inherent in any judicial proceeding in which human beings are involved. It has always been true, and doubtless, always will be. It is the only system we have, and we must use it as best we can. It is necessary in any judicial system that there be some place where factual determination becomes final and incontrovertible, even in the face of an apparently contradictory determination by some other judicial agency.

In the instant case, however, there are sufficient factual distinctions between this case and the Schwarzenberger case to make reconciliation between the judgments unnecessary. It is apparent from the record in this case that Loerner operated in a far wider field than Schwarzenberger (Case No. 8), said in its judgment rendered 4 months after the judgment in the instant case:

“His duties consisted almost entirely of paying out funds on lump-sum requisitions submitted to him by various organizations, and that, as chief of finance, he had no power to approve or disapprove requisitions for funds, which was a duty resting solely with the Reich Minister of Finance. He contends, furthermore, that not even in the requisitions and bills submitted to his office was there anything indicating the purpose for which the funds were to be used or had been used, and he never had knowledge of the purpose for which these funds were being disbursed. Schwarzenberger’s contentions are supported by an abundance of evidence. It would appear from the evidence that Schwarzenberger’s principal task was to submit to the Reich Minister of Finance a budget containing the estimated operational needs of the various departments; and upon approval by the Reich Minister of Finance, the funds were deposited with Schwarzenberger’s office for payment to the various organizations. Volumes of documents have been introduced by the prosecution in this case—hundreds pertaining to the various organizations involved—and Schwarzenberger’s name is conspicuous in its absence among these documents. No documentary evidence of an incriminatory nature has been offered against this defendant.”

Schwarzenberger's duties were apparently those of the ordinary cashier and disbursing officer. By contrast, Loerner's duties covered a far wider field and entered the realm of departmental policy, involving judgment and discretion. He did far more than merely receive funds and disburse them upon the order of higher authority. These instances are particularly referred to in detail in the original judgments of the Tribunal. For reference purposes, the following exhibits are pertinent:

- NO-266, Pros. Ex. 204, book 7.
- NO-098, Pros. Ex. 234, book 9.
- NO-2789, Pros. Ex. 530, book 22.
- NO-3161, Pros. Ex. 543, book 22.
- NO-554, Pros. Ex. 448a, book 17.
- NO-725, Pros. Ex. 481, book 18.
- NO-243, Pros. Ex. 553, book 23.

Document NO-2117, Pros. Ex. 78, book 4: Dr. Schmidt urges that this report of Loerner's as to a financing plan for the Stutthof camp was not based on his own personal knowledge of the conditions in the camp, but was merely a summary of a statement of the position adopted by the Higher SS Leader in Danzig with reference to the fiscal position taken by the Reich Finance Office. His contention seems entirely beside the point. From the exhibit, it is apparent that as chief of the budget office, Loerner and Hildebrandt had been trying to straighten out the financing involved in the change-over of the Stutthof camp from the police jurisdiction to that of the WVHA. After a conference with Peukert of the Reich Court of Accounts, Loerner follows it with a written analysis and history of the change-over which discloses an intimate knowledge of the whole transaction. The exhibit is, on its face, a written opinion as to the auditing procedure involved. He decides definitely that "any demands made by the German Reich during the time the camp was subordinated cannot be made valid." This document is much more than a mere "report summarizing a statement of the position adopted by the Higher SS and Police Leader in Danzig regarding the representations made by the Reich Finance Office." It is, on the contrary, an official opinion and ruling by Loerner.

Document NO-504, Pros. Ex. 41, book 2: Dr. Schmidt contends that this 6-day budget conference concerning SS personnel concerned only peacetime plans which were of no significance for the war budget and which were conducted during the war simply to create a peacetime financial basis for the SS. It is true that the conference, in setting up a table of organization, was taking a long range view extending into the time of anticipated peace, but it also specifically deals with personnel organization and

strength for the current year of 1942. It was an integral and important part of the war program of the SS, and in it Loerner actively participated for 6 days. The document is significant in showing that Loerner was no mere figurehead charged with casual unimportant duties on behalf of the SS, but, on the contrary, was entrusted with grave responsibilities.

Document NO-517, Pros. Ex. 86, book 4: This is a memorandum by Baier as chief of staff W, concerning camp regulations for prisoners which Pohl had requested him to draw up. The regulations were to contain, among other things, comprehensive provisions for fixing the so-called wage scale for prisoners. In the work of drawing up the camp regulations, Baier specifies that Loerner should be consulted. Dr. Schmidt's contention is that Loerner was never actually consulted, and, therefore, the exhibit is insignificant. On the contrary, it is significant as showing the recognition of Loerner's position as a consultant, even though his services in that capacity may not have been actually used.

Counsel for Loerner in his brief (p. 5) states:

"In my opinion it is not admissible to draw a connection which is relevant under criminal law between a person, solely because of his employment in an office dealing with the administration of concentration camps, and the crimes committed in the concentration camps, unless there can be ascertained a demonstratable causal connection between the actions of this person and the crimes indubitably committed in the concentration camps, and, in addition, unless it can be ascertained that the defendant himself consciously and deliberately was guilty of acts of omission or commission."

In this opinion the Tribunal readily concurs, and so stated in the original judgment (*Tr. p. 8079*). Nor has the Tribunal deviated from that principle in this supplemental judgment. We pause to state, however, that any indignation over the concept of "mass punishment" and "group condemnation" appears somewhat hypocritical in the face of a national policy which condemned to summary death *all* Jews, *all* Bolsheviks, *all* Communists, *all* gypsies, *all* asocial persons, *all* dangerous elements, *all* "sub-humans". The SS was an organization with the primary objective of meting out mass punishment and it savagely pursued that objective on a scale never before dreamed of. Now these defendants, members of that same SS, shrink with horror at the mere suspicion that such a policy is being used against them. The Tribunal has heretofore stated and now repeats its repudiation of the theory of mass punishment or group condemnation with all its implications.

TSCHENTSCHER

Pursuant to an order issued by the Tribunal dated 15 June 1948, the defendant Erwin Tschentscher filed a closing brief in answer to the brief of the prosecution on 9 July 1948 and on 29 July 1948 he filed an additional brief in consequence of an order of the Tribunal dated 14 July 1948. The Tribunal further considering the judgment and sentence heretofore imposed against the defendant Tschentscher finds and concludes the following:

The defendant objects to the interpretation placed by the Tribunal upon a personal declaration made by the defendant when testifying in his own behalf, and to the importance given said declaration by the Tribunal in its judgment. The English translation of this declaration appearing in the record is as follows:

"It was our specific intention that these people be able to recover somewhat so that they would regain a better physical condition and be able to perform their work better."

In his brief the defendant contends that the correct English translation of the declaration should have been as follows:

"It was our specific intention to give those people at last the possibility to recover, so that they would regain a better health condition and by this a better working state."

It is a further contention of the defendant in his brief that the complete statement of the defendant which was in connection with this declaration should have been taken into consideration by the Tribunal and quotes the following:

"I must say that I did not need any confirmation because just when I saw the people it was rather unnerving; and one could count on the fact that when an epidemic occurred the inmates did not any longer have any physical resistance, and one could predict that a catastrophe might occur in that field. I only had one thought, to help them as quickly and to as large an extent as possible so that these things would not happen."

This testimony of the defendant was fully considered by the Tribunal on Transcript page 8126 of the judgment.

The Tribunal concluded that the significance given the utterance and the findings deduced in its original judgment are correct. The Tribunal can find no material difference between the meaning of the passage as stated in the English translation appearing in the record and the translation contained in defendant's brief.

The defendant further complains in his brief that the following findings of the Tribunal in its judgment were not borne out by the evidence.

"The Tribunal is fully convinced that he knew of the desperate condition of the inmates, under what conditions they

were forced to work, the insufficiency of their food and clothing, the malnutrition, and exhaustion that ensued and that thousands of deaths resulted from such treatment. His many visits to the various concentration camps gave to him a full insight into these matters."

These findings so adduced by the Tribunal are amply supported by the evidence. The admissions of the defendant, the testimony of the witness Barnewald (*doc. book 3, p. 108*), the affidavits of Dr. Schiedlausky (*doc. book 3, p. 28*) and Hermann Pister (*doc. book 3, p. 109*), and other evidence in the record showed conclusively the correctness of these findings and conclusions by the Tribunal.

The closing brief of the defendant dated 29 July 1948 reiterates his contentions as contained in his brief of 9 July 1948 and, in addition thereto, its further contents consisted almost entirely of arguments which stated the contentions of the defendant as to the conclusions found by the Tribunal in its judgment. The Tribunal considered such arguments, but with these arguments the Tribunal does not agree. The Tribunal has again carefully reviewed the entire judgment and sentence, together with the two closing briefs filed by the defendant and with the entire record in the case and finds no valid reason to disturb or modify the same.

Therefore the Tribunal reiterates and reaffirms its original judgment and sentence as to the defendant Erwin Tschentscher as heretofore entered in this case.

KIEFER

On 14 July 1948 the Tribunal entered an order reading in part as follows:

"In conformity with the policy of the Tribunal to afford defense counsel every possible opportunity to present full and complete arguments on behalf of the defense, such counsel as wish to do so will now be permitted to prepare and submit briefs in reply to the prosecution's brief. If, after fully considering such defense briefs, it should appear to the Tribunal that the judgment heretofore entered as to any defendant is not then supported by the evidence and that his guilt has not been proved beyond a reasonable doubt or that the sentence imposed is unjust, the Tribunal will thereupon vacate, modify, or amend the judgment now entered in accordance with the facts and the law so determined."

This order gave to the defendant the right to submit any and all further arguments that he desired to submit, based on the record in the case. The defendant elected not to submit a closing

brief in answer to the prosecution's brief but did, on 28 July 1948, file a document with Office of the Secretary General which he termed a "statement". In the concluding paragraphs of this document the defendant stated in part as follows:

"* * * the defense must expressly decline to remedy the procedural deficiency which has thus arisen by submitting a brief in reply to the closing brief.

"The whole trial has been legally concluded and it is now the task of the Military Governor, who is alone authorized to do so, to make up for procedural shortcomings in considering the clemency plea.

"He is, therefore, awaiting the decision of the Military Governor, to whom a copy of this brief will be sent."

Thus the defendant spurns the offer of the Tribunal which allowed him the opportunity of filing a closing brief and relies upon his appeal to the Military Governor for clemency. His appeal to the Military Governor for clemency makes no contentions that the Tribunal used the prosecution's brief in preparing its judgment but, in his "statement" of 28 July 1948, this contention is made.

On 13 October 1947 an order of the Tribunal was filed with the Secretary General to the effect that trial briefs filed by the prosecution would be disregarded. However, through misunderstanding or confusion between what had been announced in open Court and the true contents of the order of 13 October 1947, some members of the Tribunal considered excerpts from some of the briefs filed by the prosecution in the preparation of the judgment as to certain defendants only.

When the question of the use of prosecution briefs was raised by defense counsel following the judgment, the Tribunal at once advised the Military Governor for the United States Zone of Occupation that the Tribunal should be reconvened to allow defense counsel every opportunity to reply to prosecution briefs and to submit additional briefs if they so desired.

Notwithstanding the fact that the defendant refuses to file a closing brief in answer to the prosecution's brief, and further, that he is relying solely upon his appeal for clemency to the Military Governor and in order to be eminently fair to this defendant, the Tribunal will again consider the pertinent questions raised in the defendant's "statement" and reconsider the judgment and sentence in the light of the record.

In the defendant's "statement" he complains of a portion of the judgment appearing on Transcript page 8133 and contends that it is not supported by any evidence in the case. This portion of the judgment is as follows:

"In the year 1914 he completed his studies in architecture, was graduated, and soon thereafter became city architect for the city of Aachen."

This finding was taken from the affidavit of the defendant, Document NO-1922, Prosecution Ex. 11. Portions of this affidavit which are pertinent to this finding are as follows:

"Then I studied for two and one-half years at the Munich Technical Academy and proceeded Easter 1910 from Munich to the Aix-la-Chapelle [Aachen] Technical Academy where I passed my examination as an architect in 1914.

"Subsequently I was employed by the government at Aix-la-Chapelle as chief of office and leading architect for the new building for the district court and the local court at Aix-la-Chapelle."

On Transcript page 3298 of the record, when the defendant was testifying in his own behalf, he testified to the following:

"In 1914 I was graduated as an architect and a city architect in Aachen."

Therefore it may be readily seen that the statement in the brief of the defendant to the effect that the finding of the Tribunal on this point was a complete fabrication is entirely unfounded, the truth being that this conclusion and statement by the Tribunal was taken from the sworn testimony of the defendant himself.

This sort of misrepresentation causes the Tribunal to suspect the integrity and sincerity of many other statements in the briefs filed by defense counsel.

The defendant complains that the following passage which occurs on Transcript page 8134 of the judgment, is incorrect and avers that the defendant, in cross-examination, expressly cleared up this matter. This passage is as follows:

"The defendant as chief of office C II was also head of the main department in charge of general affairs of the Building Inspectorate."

In Document NO-1288, Pros. Ex. 44, doc. Book 2, page 83, the following appears:

[Page 9 of original]

"DIVISION C II

Special Construction Tasks

Chief:	SS Sturbannfuehrer Kiefer
Deputy:	SS Obersturmfuehrer Funke
Bureau:	SS Strm. Tautz
	SS Strm. Haack
	Z.A. FRL. Friedel

Section C II z.v.B.

General affairs relating to
the building inspectorate

Chief:
Deputy:

SS Sturaf. Kiefer
SS Ostuf. Funke"

Although the defendant, on cross-examination, denied that any duties relating to the building inspectorate constituted any part of his field of tasks, the Tribunal did not accept his denial in fact of the matters contained in the document. Therefore, it may be clearly seen from what source the Tribunal based its finding for the foregoing excerpt from the judgment.

The remaining paragraphs of the defendant's "statement" are merely arguments as to why the Tribunal should have not reached the conclusions as found by it. He complains particularly of the finding of the Tribunal that the defendant was Kammler's deputy. The Tribunal had ample evidence to support this finding from the appointment of the defendant by Kammler as his deputy, as set out in Document NO-1244, Pros. Ex. 45. The defendant further complains of the finding of the Tribunal that the defendant prepared plans and drawings for concentration camp installations. The Tribunal had ample evidence to support such findings from Documents NO-4470, Pros. Ex. 662 and NO-4471, Pros. Ex. 663, both of which the defendant admitted having signed.

Therefore the Tribunal, having again fully considered the closing statement of the defendant, together with his statement filed on 28 July 1948, together with the judgment and the entire record, and finds no legal or valid reason to modify, vacate, or amend its original judgment and hereby reiterates and reaffirms the same, except the sentence, which will be dealt with in another portion of this opinion.

EIRENSCHMALZ

On 14 July 1948, the Tribunal issued an order entitled "Order permitting defendants to file additional briefs". Among other things this order stated the following:

"In conformity with the policy of the Tribunal to afford defense counsel every possible opportunity to present full and complete arguments in behalf of the defense, such counsel as wish to do so will now be permitted to prepare and submit briefs in reply to the prosecution's briefs. If, after fully considering such defense briefs, it should appear to the Tribunal

that the judgment heretofore entered as to any defendant is not then supported by the evidence and that his guilt has not been proved beyond a reasonable doubt or that the sentence imposed is unjust, the Tribunal will thereupon vacate, modify or amend the judgment now entered in accordance with the facts and the law so determined.

"The Tribunal will receive and consider any briefs filed in conformity herewith provided such briefs are in the hands of the Translation Division on or before 30 July 1948."

On 29 July 1948 the defendant filed what purported to be a brief. It consisted largely of the following: motion for the Tribunal to disqualify itself on account of alleged bias, motion for a new trial and that oral proceedings be resumed, summation of errors, incorrect statements and contradictions allegedly appearing in the judgment, arguments in regard to conclusions reached by the Tribunal in its judgment, a copy of defendant's appeal for clemency to the Military Governor for the United States Zone of Occupation, a large number of affidavits, all of which were filed and dated subsequent to the rendition of the judgment, testimony taken from witnesses before a Commissioner for the United States Military Tribunal IV in Case No. 11 which were taken during the month of June 1948, approximately eight pages of alleged errors in translation in the record and one error in translation which the Tribunal corrected by order.

In his so-called brief of seventy-two pages the only reference to the closing brief of the prosecution is found on page two and states the following:

"With regard to the Tribunal's decision of 23 July 1948 I wish to give my opinion on the closing brief of the prosecution and on the judgment which thereupon was announced by the Tribunal on 3 February (November) 1947, a verdict which was given following upon the closing brief of the prosecution and in a large measure based upon it. I am restricting myself to the most important points but add the brief submitted as a clemency plea to Military Governor General Clay on 17 November 1947, and make it an integral part of my arguments."

The brief of the defendant does not attempt to nor does it in any manner reply to the prosecution's brief. Therefore it is not in conformity with the order of the Tribunal. The Tribunal, by virtue of the order of the Military Governor dated 7 June 1948, is convened for the purpose of receiving such brief in reply to the prosecution's briefs as counsel for the defense wished to file and to then "reconsider and revise its judgment as may be appropriate." The brief of the defendant does not state in what factual excerpts the brief of the prosecution is in error but it

merely attempts to point out errors committed by the Tribunal in its judgment, together with arguments as to the reasons why the Tribunal should not have so adjudicated.

Even though the defendant has not filed his brief in conformity with the order of the Tribunal, the Tribunal will reconsider its judgment and sentence as to this defendant and make such additional adjudication as justice may demand.

The opinion of the Tribunal has ruled on the consideration to be given of affidavits and to the documents and matters attached to defense briefs which were not a part of the record when the case was concluded and it is not necessary to again discuss the point here. Therefore the Tribunal will not consider affidavits, documents and other matters attached to defense briefs which were not a part of the record of the case when it was concluded.

Defense counsel, in his brief, alleged many errors in translation. In the preparation of its judgment the Tribunal relied upon an expert corps of translators, fully qualified and experienced. The translations were furnished to the defendant's counsel each day in the German language. No objection was made at any time during the trial as to any of these alleged errors in translation.

The Tribunal will now consider the main objections stressed by the defendant in his brief.

At the beginning of page 3 of his brief he states the following:

"Other evidence discloses that while the defendant Eirenschmalz was in the Main Office, Budget and Buildings, he ordered the erection of a crematory in Dachau in the summer of 1940 (*NO-2256, Pros. Ex. 541*) and that at approximately the same time he ordered the construction of a crematory in Buchenwald." (*NO-4400 and NO-4401, Pros. Ex. 649 and 650.*)

In connection with this passage of the judgment he avers the following:

"In contradiction to this, the Tribunal on page 98 established that at that time the defendant was no longer in that office. It says there:

'From July 1934 until approximately the summer [autumn] of 1939 he was in the office "Budget and Buildings". In 1939 he was transferred to the Main Department for the Building Management of the Waffen SS and to the administration as chief of the office V/5.'

"The first line of the passage of this portion of the judgment should read as follows:

"From July 1934 until approximately the summer of 1940" instead of "1939". This error arose in the judgment from the

defendant's own testimony (*Tr. pp. 3405, 3505*). The defendant was not certain from his own testimony whether he was transferred from this office in the fall of 1939 or in the spring of 1940 but from the affidavit of Hans Peter Eichele, Document NO-2756, Pros. Ex. 541, Document Book 21, page 19, the following appears:

'In the summer of 1940 the Building Management Dachau erected a crematory, the order having been issued by the Main Office for Budget and Buildings (Standartenfuehrer Eirenschmalz), the leading official for building matters at the Administration Office SS.'

The correct date is further confirmed by Documents NO-4400, Pros. Ex. 649 and NO-4401, Pros. Ex. 650, Document Book 27.

The Tribunal is mindful of the fact that it is a contention of the defendant that the witness Eichele revoked this affidavit in his presence but it is the opinion of the Tribunal notwithstanding the contention of the defendant that this affidavit is true.

The defendant, in his brief, complains of the following finding by the Tribunal:

"His chief, the defendant Pohl, recognized his success in the fields of tasks assigned to him in the WVHA and, when recommending his promotion, gave a glowing account of his achievements and his devotion to duty."

It is true that the recommendation for promotion made by his codefendant Pohl was dated in the year 1937 and that the WVHA was organized 1 February 1942 but it must be remembered that his codefendant, Pohl, was his chief for a long period of time both before and after the creation of the WVHA. Therefore his codefendant, Pohl, had a much better knowledge of his qualifications than someone who had known him only after the WVHA came into existence.

The defendant, in his brief, complains of the following finding of the Tribunal:

"Sometime between February 1942 and September 1943 he was appointed deputy chief of office group C—thus Kammler's deputy."

This finding is substantiated by the affidavit of the defendant himself and the affidavit of his chief, Pohl. Pohl states in his affidavit that Eirenschmalz was deputy chief of Amtsgruppe C from January 1943 until May 1943 (*NO-2616, Pros. Ex. 523*) and Eirenschmalz, in his affidavit of 29 March, states the following:

"Kammler's deputy, as chief of division C, was for 1942 SS Obersturmbannfuehrer Buschling, and from January 1943 until 1 May 1943, I myself was the officially-nominated deputy of Kammler * * *." (*NO-2613, Pros. Ex. 12, doc. book 1.*)

Thus it may readily be seen that this finding is based upon evidence of which the defendant cannot complain.

The remaining portions of the defendant's brief which complains of the findings of the Tribunal and his arguments against such findings are concluded on page 11 and are merely recapitulations and reiterations which were made by the defendant in his closing statement. A careful review of the entire record leads the Tribunal to a contrary view of these arguments and contentions. A minute and careful examination of the entire record in the case, together with the closing statement of the defendant and his closing brief, leaves no doubt in the minds of the Tribunal of the guilt of this defendant beyond a reasonable doubt and as adjudged by the Tribunal in its original judgment. The evidence clearly discloses that the defendant, with others, operated and maintained the gigantic enterprises which resulted in the unlawful deaths of millions of slave laborers from occupied territories, and prisoners of war, and that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises involving the commission of war crimes and crimes against humanity and reiterates and reaffirms its original judgment and sentence in this case.

SOMMER

On 12 July 1948 counsel for the defendant Sommer filed a tentative brief pursuant to the order of the Tribunal dated 15 June 1948. At this time counsel for the defendant did not have the German translation of the brief filed by the prosecution against the defendant Sommer. Pursuant to the order of the Tribunal dated 14 July 1948 counsel for the defendant filed a brief dated 27 July 1948. In this latter brief counsel for the defendant deals with the case in a three-fold manner; first, when he answers the brief of the prosecution as to factual matters; second, he deals with the facts and conclusions as found by the Tribunal in its judgment and third, it consists of arguments as to what the Tribunal should have found from the evidence in the case. In support of his arguments he quotes portions of judgments of other tribunals which were entered subsequent to the trial of this case, excerpts from a diary, and other matters which are not a part of the record in this case and which were never offered in evidence nor considered by the Tribunal.

In dealing with the closing brief of the prosecution, counsel for the defendant, in his brief, says as follows:

“In this connection we deal with the contents of the closing brief only insofar as the statement made by the prosecution

cannot be recognized at once in the open but may be evaluated as creating atmosphere.

"The closing brief of the prosecution evaluates the evidence submitted in the case Sommer in a manner and a form which is anything else but objective. The statements by the prosecution are, from the beginning aimed at creating a certain impression and are often made in a tone which make it difficult to formulate the answer in an objective manner in keeping with the dignity of the Tribunal."

On page 11 of the defendant's brief counsel for the defense states the following:

"1. The judgment passed by the Military Tribunal II Nuernberg, on the defendant Karl Sommer included grave factual mistakes, most of which are taken from the closing brief of the prosecution."

In his brief of fifty pages there is no contention made by the defendant that any sentence or any paragraph of the judgment was taken from the brief of the prosecution. Neither does he quote any part of the judgment which he says was taken from the brief of the prosecution. In the preparation of its judgment as against the defendant Sommer the brief of the prosecution was not referred to nor was it used in any manner.

In his attempt to show that certain findings by the Tribunal were taken from the brief of the prosecution, counsel for the defendant enumerated certain findings as being incorrect and then attempted to answer the same by his interpretation of what should have been the correct findings of the Tribunal. An example of these statements is as follows:

"4. Incorrect is the statement of the judgment that Sommer was 'transferred' to the DEST in March 1941. Correct is Sommer 'joined' the DEST on the basis of a private employment contract as a bookkeeper in 1941.

"5. Absolutely incorrect. It is the allegation of the judgment that 'later on Mumenthey managed to get Sommer employed by the office D II to collaborate with Maurer in the allocation of prisoners'. In fact, Sommer was requested by Maurer for office D II against Mumenthey's wishes."

It is interesting to note that not in a single instance has counsel for the defense shown where any finding of the Tribunal was taken from the brief of the prosecution. Of course, it is true that the prosecution, in its brief, gave fully and completely its contentions as to what the evidence disclosed and its contentions as to what conclusions the Tribunal should reach but this is natural when the prosecution was dealing with the evidence in the light of the prosecution's case.

From a careful review and consideration of the defendant's brief the Tribunal can find nothing new. It is largely the reiteration and recapitulation of his closing argument made in open Court and of which the Tribunal gave careful consideration in the preparation of its judgment.

The defendant, in his brief, complains particularly of certain conclusions in the judgment with reference to labor allocation of detainees in office D II. The brief does not quote from the judgment but states conclusions as to what the Tribunal found to be true in its judgment.

In his brief the defendant states that all of the following statements made in the judgment are factually incorrect and are in direct opposition to the result of evidence. The Tribunal will deal with each of these statements as they appear in the brief.

"6. In the description of the labor allocation of detainees in office D II the judgment states that: 'At that time the defendant Sommer had had most detailed information about the extent and type of work done by them, their living conditions, treatment, food, clothing, and quarters.' (*Page 119 of the German version of the judgment; page 8151 of the English transcript*)".

From an affidavit of the defendant of date of 4 October 1946 (*NO-1065, Pros. Ex. 304*) he gave detailed information concerning the allocation of inmate labor from his own recollection. Approximately eleven pages of this affidavit dealt with such allocations, from which particular concentration camp inmates were taken, their numbers including male and female inmates, the kind and type of work to be performed, and to whom sent. The affidavit concluded with this statement:

"All together about 500,000 to 600,000 concentration camp inmates were furnished by the Economic Administration Main Office for the commitment of labor. (This at the end of 1944)."

It should be remembered that all of this information was the direct result of the defendant's own recollection and was sworn to and subscribed by him in this affidavit. In this connection it will be remembered that the defendant, when testifying in his own defense in regard to this affidavit, made the contention that his recollection was refreshed by the interrogator by showing him numerous documents and other material. From his admitted numerous visits and inspections of the concentration camps and other evidence in the case, the living conditions of the inmates, their treatment, food, clothing, and quarters were well known to him. Hermann Pister, camp commander at Buchenwald, in his affidavit states the following:

"Karl Sommer—I saw him repeatedly at the commander

conferences which took place in Berlin-Oranienburg at average intervals of 3 to 4 months. Once he was in Buchenwald concentration camp, where he had a discussion with the Chief of the Labor Allocation.

"The commander conferences which took place at intervals of 3 to 4 months opened on the first day, mostly beginning at 1500 hours, on Pohl's direction in the WVHA in Berlin, besides the commanders of the main camps, sometimes all the Amtsgruppen chiefs and the Aemter chiefs who were concerned with CC's were present. To these participants belong: Pohl, Gluecks, Tschentscher, both Loerners', Dr. Volk, the Chief Physician Dr. Lolling, Frank—the latter until his assignment as administration chief of the police only—Mummenthey, Opperbeck, Maurer, Sommer and Schmidt-Klevenow.

"The questions which were discussed at these meetings were mostly the following: labor assignment, food rations, clothing, quarters, treatment of the prisoners, nature of punishment and the carrying out of punishments, erection of new outside camps, evacuation of invalids to other camps, questions of troops and guards, particularly—since there was a considerable shortage of guards—training of female wardens and their recruiting. These meetings took place partly in the WVHA in Berlin and partly in the building of Amtsgruppe D in Oranienburg." (*NO-2327, Pros. Ex. 75, doc. book 3, pp. 109, 110.*)

The defendant contended that he did not attend such meetings but was there on one occasion outside. The Tribunal finds that there can be no doubt of the defendant's intimate knowledge as to all of these matters.

b. The defendant Sommer had seen some Russian prisoners of war, of whom he states that they were volunteers (*p. 119 of the German version of the judgment; p. 8152 of the English transcript*). This was taken directly from the testimony of the defendant and can be readily seen from the record, in which he stated that he saw a number of Russian prisoners of war in concentration camps, but he assumed that they were volunteers for labor.

c. The defendant Sommer had stated that he had personally visited every concentration camp during his activity in office D II. (*P. 119 of the German version of the judgment; p. 8152 of the English transcript.*) This was taken directly from the testimony of the defendant and can readily be seen from the record of his testimony. On page 3838 of the record he testified in substance that he had visited Sachsenhausen approximately fifteen times, had visited Auschwitz on two occasions (*Tr. p. 3839*), Buchenwald and Gustloff (*Tr. p. 3841*), Dachau (*Tr. p. 3843*), Oranienburg

(*Tr. p. 3852*), Gross-Rosen (*Tr. p. 3853*), and many other pages of the record disclose visits to other concentration camps. He further testified that on one occasion, while visiting the protective custody camp of one of the concentration camps, he saw the prisoners and that one inmate was not receiving his diet, that he immediately called the camp doctor and told him to make sure that he would receive it. This, of itself, would tend to show authority on his part in dealing with the welfare of the inmates.

d. The defendant Sommer had testified that in course of the conversation with Gluecks, the chief of the Amtsgruppe D, and Inspector of the Concentration Camps, he had been informed of the extermination program concerning the Jews at Auschwitz and that immediately after this conference with Gluecks, Pohl had given an order to Maurer referring to this Auschwitz program. (*P. 120 of the German version of the judgment; p. 8152 of the English transcript.*)

In regard to this conclusion in the brief, the judgment contains the following:

“He further testified that during a conversation with Gluecks, the chief of Amtsgruppe D and Inspector of the Concentration Camps, he was informed about the program for the extermination of the Jews in Auschwitz, but that he did not participate in this program in any way, even though he was asked by Gluecks to do so. Immediately after this conversation with Gluecks, Pohl gave to Maurer an order concerning this program at Auschwitz.” (*P. 8152 of the English transcript of the judgment.*)

On Transcript page 3765 this excerpt from the judgment is clearly shown, and after the defendant had explained this matter, he completed his testimony regarding this incident in the following words: “That is how I heard about the extermination of Jews in Auschwitz.”

e. The evidence shows that the defendant Sommer of office D II had procured guards for the prisoners. This finding is substantiated by the evidence in the case.

f. The evidence shows that the defendant Sommer had drawn charts showing the wages which the DAW owed for services of concentration camp detainees and that he submitted a report to the effect that during the month of July 1944, 36,784 detainees for Lublin had been placed at the disposal of the DAW and that the DAW had been charged with RM 55,176 for the work of these laborers. In this connection the Tribunal refers to the Document NO-2523, Pros. Ex. 710 (*p. 120 of the German version of the judgment; pp. 8152-8153 of the English transcript*). Document NO-4181, Pros. Ex. 710, document book 30 not only con-

firms this finding by the Tribunal but additional facts in regard thereto. It further showed that between 1 July 1944 and 30 September 1944, many more detainees from Lublin concentration camp had been placed at the disposal of the DAW and a much larger sum was due for their services.

It is significant to note that this exhibit is divided into three parts and each part is signed by the defendant as follows:

“Substantially correct and checked.

“For the chief of the Amt D II.

“ACTING FOR:

[Signed] SOMMER

SS Hauptsturmfuehrer and Main Office Chief

..... ”

[Rank]

Thus it may also be seen from this document that the defendant was then acting as deputy and Main Department chief when signing these documents.

g. One of the affidavits made by the defendant Sommer (NO-2739, Pros. Ex. 630) shows clearly that the defendant was completely familiar with the extermination program of Auschwitz and with the illegal medical experiments which were made in some of the concentration camps. (Pp. 120-121 of the German version of the judgment; p. 8153 of the English transcript.) These findings are confirmed by Document NO-2739, Pros. Ex. 630 but the Tribunal considered this only as to knowledge of the over-all picture of concentration camps by the defendant as he was not charged with any participation in these programs. These findings are also confirmed by the testimony of the defendant when testifying in his own behalf.

h. The evidence shows beyond doubt that the defendant was familiar with the “Action Reinhardt,” and that he was guilty of personal participation in this illegal and unjust action. (P. 121 of the German version of the judgment; p. 8153 of the English transcript.)

These findings are confirmed by conclusions reached by the Tribunal from the defendant’s own evidence. On transcript pages 3865 and 3872 the defendant testified in detail in regard to the watch repair shop at Sachsenhausen, that this property was confiscated enemy property which was property illegally taken from Poles, Jews, and Russians. The defendant had charge of this plant which repaired this confiscated property and which was illegally taken and confiscated by “Action Reinhardt.” The defendant testified further that he knew that this property was private property.

i. There is evidence which seems to prove that the defendant

Sommer actually knew of the existence of crematories and gas chambers in the concentration camps and of the purposes they served. That portion of the judgment which this erroneous statement refers to, reads as follows:

“There is evidence in the case which tends to show that the defendant Sommer actually knew of the existence of crematories and gas chambers in the concentration camps and the purposes for which they were used.”

(This finding is confirmed by the testimony of the defendant while testifying in his own behalf).

j. Office D II and the defendant Sommer played a prominent part in the perpetration of cruelties and murders in the concentration camps and the defendant was, according to penal law, responsible for such participation. (*P. 122 of the German version of the judgment; p. 8154 of the English transcript*).

This was a conclusion and finding made by the Tribunal from all the evidence in the case and it constitutes a part of the adjudication of the Tribunal as to the guilt of the defendant.

In this connection it is interesting to note that the authority that the defendant had in affairs of Amt D II is described by the defendant in his own testimony on transcript page 3873 of the record:

“In 1943 Maurer appointed me his deputy. * * * someone versed in all matters pertaining to his sphere of work.”

The remaining parts of the defendant's brief which dealt with excerpts from his diary and other matters which were never offered in evidence during the trial, the Tribunal cannot now consider. They constitute no part of the case and the Tribunal is not now permitting further proof to be offered.

The defendant complains of the following excerpt from the judgment which reads as follows:

“Without attempting to pass judgment upon his guilt or innocence the Tribunal deplores the fact that Gerhard Maurer was not apprehended prior to the commencement of this case in order that his responsibility, if any, for the operation of D II could be determined.”

He says that this remark seems to indicate that the Court had certain misgivings as to its verdict in the case of Sommer. This contention is entirely erroneous. The Tribunal had no misgivings as to its verdict and the guilt of the defendant Sommer, but merely deplored the fact that all persons connected with the case could not be tried at one time rather than in a number of cases.

The gist of the remaining portions of defendant's brief consists of arguments and conclusions which were contained in detail in the defendant's closing plea and which have been reiterated

here. However, the Tribunal has again carefully considered these arguments and contentions in connection with the judgment and the entire record in the case and fails to agree with the conclusions reached by the defendant but finds and adjudges to the contrary.

After a most careful review of this case in connection with the closing brief of the defendant and the entire record, the Tribunal finds no legal or just cause to alter, amend, vacate, or modify its original judgment and sentence. Therefore the Tribunal reiterates and reaffirms the original judgment and sentence heretofore entered in its original form and substance.

POOK

The Tribunal pronounced judgment and sentence against the defendant Hermann Pook on 3 November 1947, as appears of record. The prosecution, on 29 September 1947, filed its closing brief against this defendant. On 8 October 1947 the defendant Pook filed his closing brief in answer to the closing brief of the Prosecution.

Pursuant to an order of the Tribunal dated 15 June 1948, the defendant filed a closing brief dated 12 July 1948. Pursuant to an order of the Tribunal dated 14 July 1948 the defendant filed a statement in supplement of his brief of 12 July 1948.

In the preface of his brief of 12 July 1948 counsel for the defense stated the following:

"In the case of the defendant Dr. Pook the prosecution handed in a closing brief against this defendant, dated 29 September 1947, which was then included in the judgment, partly literally and partly in paraphrase, without the defendant having been given any opportunity to reply to it. This reply cannot and will not be made now * * *."

On 14 November 1947 the identical defense counsel filed in the Office of the Secretary General his appeal for clemency to the Military Governor of the American Zone of Occupation. In this appeal for clemency counsel for the defendant stated the following:

"The prosecution, after the conclusion of the trial, has presented a closing brief dated 29 September 1947. I have answered it on 8 October 1947. As I must assume that the Court has no longer taken into consideration this reply of mine in its finding of the verdict, permit me to enclose a copy of it with the present application. *The closing brief of 8 October 1947 is to be a component part of my present application.*"

The Tribunal is astounded by this false assertion made by counsel for the defense in the preface to his brief of 12 July

1948. Such conduct on the part of defense counsel causes the Tribunal to have grave doubts and genuine suspicion as to many other assertions made by defense counsel in his closing briefs.

The closing brief of the defendant, dated 8 October 1947, contained approximately 11½ pages, answering in minute detail every assertion of fact made by the prosecution in its closing brief. For a period of approximately 25 days prior to the rendition of its judgment and sentence the Tribunal had, for its consideration, the closing reply brief of the defendant.

In preparing its judgment the Tribunal gave careful considerations to the written closing argument of the defendant which was delivered in open Court, together with his closing brief, and failed to agree with his contentions as to what constituted facts of the case. After a careful review of the entire record and after due consideration given to the closing brief of the defendant the Tribunal found and concluded otherwise.

Therefore the Tribunal, after having again fully considered the closing brief of the defendant dated 8 October 1947, together with his brief of 12 July 1948 and his statement of 27 July 1948, with the entire record of the case, the Tribunal is of the opinion that the defendant has had a fair, just, and complete hearing of his case and now finds no just cause to vacate, modify, or amend its original judgment and sentence and hereby reiterates and reaffirms the same.

HANS BAIER

Counsel for Hans Baier begins his brief with a reference to the Court Order of 13 October 1947. On 3 October 1947, the prosecution filed a closing brief against Baier. It is evident that the prosecution did not regard the statement in open court on 15 August as a bar to filing briefs. It is evident that counsel for the defendants Pook and Klein did not regard the statement in open court on 15 August as a bar to filing briefs. It is evident that a misunderstanding occurred on the subject of filing briefs. It must be emphasized, however, that the facts in the case are not altered by briefs. To the extent that assertions in any of the prosecution briefs were accepted by the Tribunal, the assertions were based on the documents and the transcript of the record. The documents and the transcript speak for themselves regardless of the briefs. Nonetheless, with the reconvening of the Court, counsel was given every opportunity to file briefs which, because of the Order of 13 October they felt they were not entitled to file. Counsel for Baier has availed himself of this opportunity.

The comparisons between prosecution brief and judgment have

been discussed in the Hohberg Judgment and need not be repeated here. The Tribunal here finds that in each instance of comparison drawn by defense counsel, the conclusions reached by the Tribunal were based on the record.

In his brief, defense counsel says:

"There is no proof for the assertion that Baier's functions embraced the carrying out of the slave labor program. The individual cases cited by the Tribunal in proof thereof clearly disclose that there were either special orders given to Baier by Pohl which did not fall within the field of work of my client, or that they did not concern any activity on the part of Baier but merely his taking notice of them."

Here defense counsel is relying on the defense of superior orders, but superior orders do not constitute a defense, although they may be pleaded in mitigation of punishment. That mitigation has been considered and passed on.

It is strenuously argued by defense counsel that Baier was entirely ignorant of concentration camp atrocities. Concentration camp inmates were being used by SS industries without remuneration. In their work they were abused, maltreated, starved, and some killed, either because of ill treatment, lack of care, or through punitive companies. Much of this was done for the industries controlled and directed by staff W. Yet it is argued that those who directed the enterprises but had no contact with the inmates are not guilty of war crimes or crimes against humanity. A machinery of misery and destruction is put into operation and yet no one seems to be responsible for the resulting physical and moral devastations except perhaps Pohl.

It is admitted by counsel that Baier knew the prisoners did not receive wages. Being prisoners he knew they were deprived of their liberty. And all this adds up to slavery. But defense counsel says that Baier was a soldier in time of war and he could not resign without risking life and liberty. But there is no evidence that he protested his work, nor is there any evidence that he tried to get out of it, or that he did it with lack of enthusiasm. He joined the Nazi Party as far back as 1933, so it must be assumed he knew of Nazi policies and that he approved of them. Thus it is too late for him now to say there was nothing for him to do. Not all the Germans in Germany are in prisoners' docks or felons' cells. The vast population is free. They stayed out of trouble, they did not commit war crimes and crimes against humanity. That possibility was open also to Baier, as it was open to all others, but he chose the fruits and the glory of National Socialism, and as a consequence he finds himself in his present position.

Baier not only was aware that inmates were unpaid, but he knew which industries employed them. Pohl testified as follows in this connection:

"Q. As a matter of fact you told Baier, did you not, to compile a list of all of the industries in Amtsgruppe W which used concentration camp inmates for the purpose of discussing the question as to how much the inmates should receive, or, rather, how much the industries should pay for the use of inmate labor. You did that, didn't you?

"A. Yes. We discussed that.

"Q. You talked about the use of inmate labor when you discussed that, didn't you?

"A. Yes, certainly, of course.

"Q. There is no doubt in your mind that Baier knew which of the industries used inmate labor?

"A. That he knew very well." (*Tr. p. 1821.*)

Baier as chief of staff W could also not fail to know of the cruel principle underlying the entire program of the utilization of concentration camp labor. Document NO-1016, Pros. Ex. 46, dated 13 July 1944, concerning W Contribution to Lectures, and addressed to SS Oberfuehrer Fanslau, contains some highly illuminating passages:

"Office group W comprises all economic enterprises under SS control. In studying the W enterprises first of all the urgent question arises: Why does the SS engage in business? * * *.

"The Reich Leader SS in his capacity as chief of the German Police was confronted with the task of solving problems, which the Reich as such was not able to solve, viz to get hold of all antisocial elements which no longer had a right to live within the National Socialist State, and to turn their working strength to the benefit of the whole nation. This was effected in the concentration camps. The Reich Leader SS, therefore, delegated SS Obergruppenfuehrer Pohl to set up concentration camp enterprises. In addition he gave orders to establish companies on a private economy basis for the purpose of employing the prisoners." (*II/105-107.*)

Defense counsel says that Baier once visited the Dachau concentration camp, but he could find nothing which would have permitted the conclusion that the detainees were treated inhumanely.

The concentration camp at Dachau was one of the most notorious in all of Germany. In fact its reputation was so well known to the German people that Dachau became a symbol for all concentration camps and the mere mention of the word "Dachau" conjured up human suffering in its most miserable forms. If

Baier found nothing inhuman at Dachau, the next logical query should be, what constitutes inhumanity?

Defense counsel says further:

“But he did not know at that time that arbitrariness and forcible methods were the bases of the commitments to a concentration camp. Like many other Germans, Baier was of the opinion that legal proceedings had to precede any commitment to a concentration camp. It would have been impossible for him to have exact knowledge about that because the WVHA had nothing to do with the commitment of people to a concentration camp and the only agency designated to have such authority was the Reich Security Main Office. There is no further need for dwelling on the fact that severe secrecy regulations, protected by threatened draconic punishment, threw a veil over the methods practiced by the Gestapo. The so-called whispering propaganda on the nature of the commitments to concentration camps was certainly least apt to reach members of the SS because everybody was particularly careful and reserved in expressing such views to the face of SS members.”

The Tribunal must reject this line of reasoning completely. To say that of all people, the SS did not know why people were sent to concentration camps and what happened to them, especially the SS charged with running the plants using concentration camp inmates, is to argue what is sheerly unacceptable and contrary to the facts in the case and all reasonable observation.

Defense counsel seeks to absolve his client from guilt by arguing percentages:

“The evidence has shown that out of about 50 companies of the DWB only a few used inmate workers (*record pp. 5015, 5016*). The evidence further revealed that in those few W concerns which used inmate labor only a small percentage—namely 5–10 percent—of the concentration camp inmates were used.”

But the fact remains that concentration camp inmates were *used* in W industries and used in an inhuman manner, and that constitutes war crimes and crimes against humanity.

Defense counsel says:

“The fact that the W concerns belonged to the same WVHA as the concentration camp administration does not permit the conclusion that they were internationally connected because until 1942 the concentration camp administrations were not part of the WVHA at all.”

But the admission that the W concerns belonged to the same WVHA as the concentration camp administration in itself reveals the tie-up between the two, at least after 1942, and the crimes enumerated in the indictment certainly go beyond 1942.

Defense counsel says:

"The finding in the judgment that an increase in the compensation for prisoners would have benefited the SS is incorrect; it does not tally with the result of the evidence presented. The exact opposite is true. The compensation for prisoners, which had to be paid by the W enterprises, was a payment to the Reich, i.e., an expense and not a gain for the W enterprises. The compensation was paid exclusively to the Reich into a special account. The fact that 5-6 million RM were booked in this account, can therefore not be regarded as an incrimination of Baier, but can only serve to exonerate him."

It is not clear that this exonerated Baier. The W enterprises paid to the Reich, of which they were certainly a part, 5,000,000-6,000,000 Reichsmarks for the use of slave labor. The Reich had no legal rights to payment for these prisoners, it had no legal rights in the prisoners whatsoever. If A kidnaps B and then hires him out to C who knows of the kidnaping, C is certainly not free from crime because he had nothing to do with the kidnaping or did not actually receive any money from the kidnaper or the victim. It is certain, in such a case, that C would have benefited from the use of the victim, as the W enterprises certainly benefited from the use of this "cheap" labor.

With reference to the Judgment wherein the Tribunal imputes knowledge to Baier of the excessive work hours imposed on the inmates, defense counsel says:

"Just in passing, I wish to mention here—because it is characteristic of the situation as it was at that time—that SS members, civilian employees, and civilian workers in the WVHA worked 12 hours per day."

But there is an abysmal difference between working on one hand for pay and, let us suppose, for one's country too, and on the other hand slaving gratuitously and being beaten, starved, and in many instances being required to manufacture arms and equipment to be used against one's own countrymen!

The Tribunal did not convict Baier of complicity in the OSTI operation, but it did say that "his office trafficked in the ill-gotten gains from OSTI." Defense counsel says in his brief:

"It is merely established that Pohl as chairman of the supervisory board, for want of another office, gave the order to the staff W to supervise in a legal capacity the liquidation of the OSTI in order to see to it that the business was properly wound up."

Staff W cannot plead innocence and certainly not ignorance of the evil doings of OSTI, and while this is not a major element of proof against Baier, it all argues against his oft repeated

statement that he was entirely ignorant of the illegal and criminal deeds of WVHA. It was well established at the trial that OSTI was listed under the heading staff W as one of its activities. The functioning of staff W as described in the judgment herein on Hohberg was equally as effective under Baier as it was under Hohberg who preceded Baier as chief of staff W.

Defense counsel says that Baier's participation in the Litzmannstadt affair reacts to his credit. The sad and tragic end of the Litzmannstadt operation is discussed in the case of Volk. There it will be seen how much credit either Volk or Baier is entitled to for the frightful treatment accorded the inmates of the Lodz ghetto.

Defense counsel disclaims for his client any responsibility for obtaining barracks at the Auschwitz concentration camp for prisoners being used by Getwent G.m.b.H., by saying that Pohl ordered Baier "to requisition the huts in his name" from the commander of the camp. Here again we have Pohl being advanced as the universal scapegoat and here again it must be asserted that Baier was not a mere "messenger," as suggested by defense counsel, nor was he a mere lance corporal in the SS. He held high position and rank. With them went not only objective rewards and preferential treatment but also responsibility.

That responsibility he has had to meet at this trial.

After considering the briefs and arguments submitted by defense counsel in this proceeding and reviewing the entire record, the Tribunal finds no reason to disturb the judgment rendered on 3 November as to Baier, and accordingly confirms the judgment and sentence imposed.

HANS HOHBERG

Defense counsel has gone through the forced process of comparing statements in the judgment with assertions in the prosecution's briefs, as if a paraphrase or similar clause would in itself establish innocence of his client. As a matter of fact, this enumeration only emphasizes all the more the guilt of the defendant because in each instance where the judgment has been quoted, the record reveals the emphatic and conclusive evidence of Hohberg's culpability. We will take up the various sentences in the judgment which defense counsel has quoted and then immediately thereafter quote the record in authentication and substantiation of the Tribunal's finding:

JUDGMENT

THE RECORD

“* * * He sought to deny that he was chief of staff W, but the defendants Volk and Baier, as well as defense witness Karoli from staff W, all confirmed his (Hohberg’s) official position.”

Volk’s testimony—

“Q. The Prosecution has submitted that Hohberg had been the first Chief of staff W, and then after him, Baier. That is page 1009 of the German transcript, is that correct?

A. That is entirely correct.” (*Tr. p. 5041.*)

Volk’s testimony—

“Herr Dr. Hohberg was an auditor and, apart from that, he also had the title Chief of staff W. That can be seen from the documents. I don’t have to tell you more.” (*Tr. p. 5156.*)

Baier’s testimony—

“Q. (Judge Phillips) You state at the end of page 7: ‘The auditor, Dr. Hohberg, was my predecessor as chief of the staff W in the WVHA.’ Is that true or false?

“A. That is true.” (*Tr. p. 4864.*)

Statement by Hans Baier—

“The auditor, Dr. Hohberg, was my predecessor as chief of staff W in WVHA.” (*Doc. NO-1377-I/82.*)

Karoli’s testimony—

“Q. (Judge Phillips) Who did the defendant Baier succeed as chief of staff W?

“A. Herr Dr. Hohberg.” (*Tr. p. 4863.*)

“The task of coordination and directing W Industries at the top level was the task of staff W, whose chief, according to the business order of SS-WVHA, had many duties.”

Letter to Fanslau on SS lecture—

“According to this identity in the field of production and single economic enterprises maintained by the SS are united in the office W I-VIII. *At head of these offices stands the W staff of the SS Obergruppenfuhrer Pohl regarded from the point of view of private economies the Deutsche Wirtschaftsbetriebe G.m.b.H.*” (*Doc. NO-1016, II/108.*)
[All italics supplied.]

The comment of defense counsel here that “From 30 June 1943, Hohberg did no longer work but joined the army,” in no way influences the applicability of the business order of the WW-WVHA because, although promulgated 24 November 1944, it only confirmed the theretofore existing practice. In this respect, the defense witness Karoli testified:

JUDGMENT

THE RECORD

"He was the economic advisor to Pohl * * *."

"* * * assisted Pohl in the discharge of his duties of management * * *"

"* * * and the chiefs of the offices in department W were to report to Pohl only after conferring with the chief of staff on all financial, economic and other important matters concerning the management of the enterprises."

"The chief of staff W was to supervise the manner in which all funds and moneys furnished by or through DWB were to be used * * *"

"He was to supervise business transactions of all SS Industries * * *."

"He was to examine the purchase and sale of all plots of land."

"Actually it only confirmed the conditions which *already existed in the WVHA*, namely, the tasks within Amtsgruppe W were actually fixed and compiled into one report in the form of a business regulation." (*Tr. p. 4673.*)

"The Chief W is the economic advisor of the chief of the Main Office." (Pohl) (*Doc. NO-3170, XXIV/53.*)

"* * * in addition he assists the Chief of the Main Office (Pohl) in the *discharge of his duties of management.*" (*Doc. NO-3170, XXIV/53.*)

"The office chiefs (there were 8) have the right to report directly to the Chief of the Main Office. It is their duty to report orally to the Chief of the Main Office on all *financial, economic and other matters which are of importance as far as managing the enterprises and concerns is concerned*: This is to be done *after consultation with the chief W.*" (*Doc. NO-3170, XXIV/54.*)

"The following duties have been turned over to the chief W * * *. Supervision of the manner in which all funds and monies furnished by or through the DWB to the enterprises, are used." (*Doc. NO-3170, XXIV/53.*)

"In this respect he is especially charged with the *supervision* and with giving economic and financial advice to the *enterprises and offices.*" (*Doc. NO-3070, XXIV/53.*) See also transcript, page 4531: Hohberg's testimony:

"Q. * * * You supervised the economic enterprises from the point of view of finance, organization and legality?"

"A. That is correct."

"The following legal transactions are subject to *examination* by the chief W— * * *

1. *Purchase, sale, Mortgaging of Plots or rights to such plots.*" (*Doc. NO-3170, XXIV/53.*)

JUDGMENT

THE RECORD

"* * * and he employed and discharged all employees in staff W."

"Hiring and firing of employees (except Prokuristen) with a monthly salary of 600 RM and above." (Doc. NO-3170, XXIX/53.)

"In his testimony Pohl declared that staff W was the instrument which he used as the sole business manager of DWB in the supervision of the economic enterprises."

Pohl's testimony—
"The Staff W was the instrument which I used as the sole business manager of the DWB when I supervised these enterprises." (Tr. p. 1546.)

"All W Industries obviously were an essential part of the concentration camp system."

*"Office Group W comprises all economic enterprises under SS control. In studying the W enterprises first of all the question arises: Why does the SS engage in business? * * *"*

"The Reich Leader SS, therefore, delegated SS Obergruppenfuehrer Pohl, to set up concentration camp enterprises. In addition he gave orders to establish companies on a private economy basis for the purpose of employing the prisoners." (Doc. NO-1016, II/107.)

"Himmler, in his Metz speech, declared: 'We cannot exist without the business enterprises.'"

From Himmler's address to officers of the SS Leibstandarte 'Adolf Hitler' on the 'Day of Metz' (Presentation of historical Nazi flag.) (Doc. 1918-PS, XXVI/18):

"We cannot exist without the business enterprises."

"* * *. In fact on the stand he described himself as the godfather of DWB."

Hohberg's testimony—
"That was the foundation period of DWB. But when he had Prokuristen I had, of course, to resign, and legally, I, so to speak was the godfather of this baby, and then I withdrew." (Tr. p. 4564.)

"Karoli testified that Hohberg was the expert and economic brain of the enterprises."

Karoli's testimony—
"A. To put it very briefly, I reached that conclusion because, as soon as Dr. Hohberg left, the expert and the economic brain disappeared from staff W." (Tr. p. 4731.)

"When the workshops in the Dachau concentration camp were organized and incorporated into DAW, it was Hohberg who handled the financial aspects of the transaction and advised Pohl as to what steps should be taken,"

Hohberg's letter to Pohl, dated 3 September 1940.

"Berlin, 3 [18] September 1940
St. W.Ho/Ha.

"To SS Gruppenfuehrer Pohl, Here. "By your letter of 31/1/40 addressed to Standartenfuehrer Dr.

Salpeter you have given instructions for the transfer of the *Economic Enterprises Dachau to the German Equipment Works (Deutsche Ausrüstungswerke)* on the basis of the former's balance sheet of 31 December 1939.

"SS Sturmbannführer Maurer, [Amt D II], guarantees the assets on the balance sheet of the Economic Enterprises not to be overestimated and all liabilities to be included in the balance sheet. Checking of the assets is therefore not necessary, since they will be examined anyhow in the course of the review of the German Equipment Works due on 31/12/40.

[Signed] Hohberg"

"Testifying on the matter of the remuneration for the use of concentration camp inmates, Hohberg stated: 'I saw the amount of daily wages paid for the inmates and as an auditor I had to give my opinion on what these enterprises should pay to the Reich'."

"Through Hohberg's efforts, the German Lebensmittel, the Textile and Leather Company, and the Osti—all using inmate labor—were given the form of a company."

"He was frequently consulted when these enterprises were being founded."

"The commanders of the concentration camps functioned under Pohl's direction as Works Managers of the various economic enterprises."

Hohberg's testimony—

"I saw the amount of daily wages paid to the inmates, and as an auditor I had to give my opinion on what these enterprises should pay to the Reich." (Tr. p. 4373.)

Hohberg's testimony—

"* * *. After all, these plants had already been in existence before and later, upon my suggestion, they only received the form and the title of a company. I mention these enterprises as the *German Lebensmittel G.m.b.H.*, the *Textile and Leather Evaluation G.m.b.H.* or *Deutsche Textil- und Lederwertung G.m.b.H.*, and in the last month of my activities it was the *OSTI*." (Tr. pp. 4261-2.)

Hohberg's testimony—

"Q. Were you called in any capacity, as a consultant, for instance when these enterprises were being formed?

A. Not always, but quite frequently." (Tr. p. 4354.)

Order of Pohl to chief department D—30 April 1942:

"The management of a concentration camp and of all the economic

JUDGMENT

THE RECORD

enterprises of the SS within its sphere of organization is in the hands of the camp commander. He alone is therefore responsible that the economic enterprises are as productive as possible * * *. He needs a clear professional knowledge of matters military and economic. (*Doc. R-129, II/68.*)

That concentration camp commanders functioned as works directors is established (among other evidence) by Document NO-2160, III/116:

"I herewith announce, that effective 31 August 1942 SS Oberfuehrer Loritz will leave his duties as commander of the concentration camp Sachsenhausen * * *. SS Obersturmbannfuehrer Kaindl will take his place effective 1 November 1942 * * *. Please transfer to the account known there (and) for SS Obersturmfuehrer Kaindl as the *works director* the living cost allowance in question for *the concentration camp Sachsenhausen.*"

"When the matter of transferring armament production to concentration camps was discussed, Hohberg accepted appointment as expert for the WVHA. People desiring to know the details of the transfer of armament enterprises to Neuengamme, Auschwitz, Lublin and Ravensbrueck, were referred to Hohberg as being the person in WVHA competent to conduct negotiations."

Letter from Kammler—Subject: Armament Plants for Concentration Camps.

"2. Staatsrat Dr. Schieber especially welcomed the standpoint of the chief of the main office to transfer suitable armament orders to the existing concentration camps. For this purpose Staatsrat Dr. Schieber will conduct final negotiations with the Army Ordnance Office, etc. during the next few days, in regards to orders for the following concentration camps:

- a Hamburg-Neuengamme
- b Auschwitz (production of parts for anti-tank guns envisaged)
- c Lublin
- d Ravensbrueck— Manufacture of armaments for the air-force— Dr. Schieber will exercise the pressure necessary to push on the construction measures required for this purpose.

In regard to these negotiations I referred to *Dr. Hohberg, as being competent* within the Economic Administrative Main Office. *Staatsrat Dr. Schieber will then discuss the draft with Dr. Hohberg.*

The Chief of Amtsgruppe C

[Signed] KAMMLER."

(Doc. NO-1215, book 3.)

"When the Hermann Goering Works wanted inmate labor, Hohberg attended the conference which considered the ways and means of supplying these inmates. The memoranda written by Hohberg reveal an intimate knowledge of concentration camp labor problems."

Reference to Document NO-1914, XIV/65 and Document NO-1916, XIV/69 being memoranda written by Hohberg will conclusively demonstrate Hohberg's intimate knowledge of concentration camp labor problems. Only one paragraph will be quoted:

"Unless the Reich Leader SS desires to assist the Hermann Goering Works with prisoners out of personal or economic reasons, our participation in the form provided has not much point from the financial angle except if the Hermann Goering Works should agree to hand over part of the turnover to the 'Lebensborn' or some other office of the Reichsfuehrer."

The documentation in this operation reveals the important part played by Hohberg therein. Volk wrote:

"Concerning the establishment of the slag-utilization plant of the Hermann Goering Works at Linz, SS Obergruppenfuehrer Pohl has given instructions that Dr. Hohberg shall handle the transactions (translated also 'hold the pen'). I therefore request all offices in the building to keep in touch with Dr. Hohberg, since he alone is to keep the Obergruppenfuehrer informed by memo." (Doc. NO-1915, XIV/68.)

"Hohberg himself testified that he handled the financial, organizational, and legal problems of the Economic Enterprises."

Hohberg testimony:

"Q. (By the President) * * *. You supervised the *economic enterprises* from the point of view of *finance organization and legality*?

A. Yes. That is correct." (Tr. p. 4531.)

JUDGMENT

THE RECORD

"Hohberg testified that he left the WVHA because of his disapproval of its activities."

"The defendant never made any secret of his hostile attitude to the SS." (Final plea Hohberg, p. 27)

"Hohberg, from the introduction of the National Socialist way of thinking, was an uncompromising enemy of National Socialism and its ideology and never changed his opinion." (p. 28) "Since his Lublin trip, Hohberg pressed for his release." (p. 56) "His decided stand against the SS system and the National Socialist regime expressed itself through manifold revolutionary propaganda." (p. 60) "Hohberg also planned to remain active later on as advisor of the DWB Concern, but not as an advisor of an SS Concern, but of a Reich Concern from which the influence of the SS or the WVHA was entirely excluded" (p. 62). Hohberg's testimony: "By the middle of 1942, roughly, on the basis of an arrangement with my friend, Dr. May, I turned away from the ideology of the WVHA entirely and we also hoped to have the political power of the DWB concern transferred somewhere else which is what I wanted to express here." (Tr. p. 4320.)

"But even after leaving, he accepted a contract from Pohl by which his family received 2,000 RM per month."

Hohberg's testimony—

"Q. * * *. How much did your family get monthly?

A. Nineteen hundred and sixty-six marks.

Q. In other words, roughly, 2,000 marks?

A. Yes." (Tr. p. 4431.)

"In 1944, after having left the WVHA, he carried out successful negotiations with Pohl and obtained the cooperation of the SS enterprises in the production of jet-propelled planes."

Hohberg's testimony—

"Q. Wasn't it you who, in 1944, suggested to Pohl to incorporate the SS enterprises into the Fighter Program?

A. Yes." (Tr. p. 4435.)

"I went in to see Pohl and I asked him to incorporate his enterprises into the jet-propelled fighter plane * * *. We got a deal through with Himmler, that Pohl actually had to

JUDGMENT

THE RECORD

“Staff W played an important part in ‘Action Reinhardt’, in the supervision of Osti, and in handling loans from the Reinhardt funds.”

join this program which was the Me-162, the jet-propelled plane.” (*Tr.* p. 4435.)

Hohberg’s testimony—

“Q. Was the Osti part of staff W?

A. Yes. It was. Herr Pohl ordered that the Osti be incorporated into staff W on the organizational chart, because according to branches there was no possibility open to incorporate that company in some other box of the organizational chart. (*Tr.* p. 4390.)

Document NO-1039, book 14, pages 31-33.

“17. *Reinhardt Funds*:

The contract between the Reich and the DWB concerning the loan from the Reinhardt funds must be drawn up in writing.

[Signed] HOHBERG

8 August 43”

Document NO-1039, book 14, pages 23-24.

“To the Reich Leader SS ‘T’ *Ostindustrie G.m.b.H. Lublin* (abbreviated: OSTI (Eastern industrial Limited Lublin).) Newly founded Company for the exploitation of the balance of Jewish property and of Jewish labor in the government general.”

Document NO-1015, book 16, page 93.

“To the Deutsche Wirtschaftsbetriebe G.m.b.H. Attention: Dr. Hohberg, Berlin W 35, Potsdamer Str. 95.

“As a result of consultation with IVa of the chief of the SS and Police Leader for the district Lublin, SS Sturmbannfuhrer Wippert, a total of Zl. 1,200,000—has been made available to us up to date. We are now asked to assign the available funds to the Economic and Administration Main Office, in care of SS Hauptsturmfuhrer Melmer, in favor of the ‘Reinhardt’ scheme. On the strength of the consultation, we had the impression that these credits would be available to us until at least 1 October of the current year

in order that from the capital which has meanwhile accrued, and in connection with the impending increase of capital, we may possess the capital without having to fall back on bank credits. We now ask that negotiations should be made with SS Hauptsturmfuehrer Melmer to see if the funds made available to us so far can be left at our disposal until 1 October of this year, and that in addition to this, we may obtain credits for RM 3,200,000 on which we could draw any time through the garrison administration in Lublin."

"Osti is listed as part of staff W on the chart of WVHA which was assigned by Pohl."

Pohl's testimony—
 "Q. * * *. You also included Eastern Industries Ltd. in your chart which you looked at this morning, and said it was correct. That was included under staff W, wasn't it on the chart, do you recall that?"

A. Yes, of course." (*Tr. p. 1846.*)

In his brief, defense counsel refers to the business order for economic enterprises of the SS, and states that it cannot apply to Hohberg because Hohberg had already left when this order was promulgated, but, as previously stated, Karoli testified that this order only confirmed an already existent procedure. The Tribunal accepts Karoli's testimony as trustworthy.

The statement by counsel that staff W was merely a title and not an official office without employees runs counter to all evidence in the case. Document after document refers to staff W, and Karoli himself was an employee of staff W. (*Tr. p. 4658*)

In laboring his argument that Hohberg was not chief of staff W, defense counsel seeks to minimize statements made to that effect by the codefendants Baier, Volk, Pohl, and the defense witness Karoli, but no reason has been advanced as to why these persons would want to perjure themselves on this point.

Defense counsel says that Hohberg never once saw the inside of a concentration camp. Hohberg was asked: "Q. Did you know anything about labor conditions in the enterprises which employed inmates?"

And he replied: "A. Yes. I visited several of those enterprises where inmates were working because I was under legal obligation to do so." (*Tr. p. 4345*)

The term concentration camp in its broad sense includes not only the place where the inmates sleep but the immediate curtilage as well. Most of the atrocities associated with concentration camps occurred in the plants and industries operated by the concentration camps.

Max Wolf who testified for the defendant declared:

"I saw an industrial concentration camp, which was the mechanical workshop at Neubrandenburg. There the whole industrial enterprise was built up in the shape of a concentration camp, where even the engineers had to work who were members of my organization." (*Tr. p. 4623*)

As indicated earlier in this opinion, the concentration camp commanders were responsible for all economic enterprises within their sphere of organization. (*Doc. R-129*)

It is futile for Hohberg to plead innocence of concentration camps. He visited Auschwitz and spoke to the commander there, the infamous Hoess, although Hohberg did state that the visit occurred in the commander's office.

The witness Wolf verified Hohberg's knowledge of conditions in concentration camps:

"Q. Is it true, witness, that in 1942 Hohberg told you about atrocities that were being committed in concentration camps?"

"A. Yes. I said so; he reported that to me.

"Q. What was the earliest date that he told you about these things? Was it as early as 1941?"

"A. Yes." (*Tr. p. 4629*)

In his pretrial affidavit, Hohberg said:

"As long ago as 1942 it was clear to me that prisoners were employed for the economic concerns. Dr. May, the manager of the 'German Equipment Works' (Deutsche Ausruestungswerke) asked me to have a look at his concern, and in the course of doing so, I inspected the works in Lvov, Lublin, and Auschwitz. On this occasion I saw, among other things, how 5,000 women marched barefooted to their work, and this gave me a true picture of existing conditions." (*Doc. NO-1294, I/83.*)

He knew as early as 1940 or as early as 1941 that DEST was using inmate labor.

"Q. When did you first learn that the DEST was using inmate labor?"

"A. I heard that at a very early time, either at the end of 1940, or early in the course of the auditing 1941. At that time, I paid a brief visit to the DEST at Oranienburg and I walked through the plants there." (*Tr. p. 4478*)

Hohberg knew that concentration camp inmates were not paid for their work:

“THE PRESIDENT: Well, the Reich, we’ll say, had 5,000 human machines, just as it might have had 5,000 motors and it said to the factories, ‘We’ll rent those human machines to you for so many Reichsmarks per day.’

THE WITNESS: Yes. That is the way it was.

THE PRESIDENT: Just as they could have rented 5,000 motors for so many Reichsmarks per month.

THE WITNESS: Yes, quite so; exactly the same thing.

THE PRESIDENT: The 5,000 human machines just got food and shelter.

THE WITNESS: Yes.

THE PRESIDENT: And nothing more.

THE WITNESS: No, nothing at all.”

Hohberg offered a rather grim reason for the impracticability of paying and cumulating wages:

“However, the problem is entirely different even if it had been the way you say it was, namely, that the inmate was to be paid a daily wage and the pay had accumulated. Then what use is it to the inmate if he dies later, or if he is gassed or something similar?” (*Tr. p. 4371*)

In reviewing the entire record in the Hohberg case, it becomes evident that in comparison with the sentences imposed on other defendants Hohberg fared well. The fact that he was not a member of the SS weighed in his favor, and the fact that once he left the WVHA he lent some aid and comfort to the anti-Nazi movements also contributed to the light sentence which he received.

On the basis of his activities in WVHA he could well have received a much severer punishment. He not only was aware of the abuse of concentration camp inmates but through his intense energies and zealous concern for the economic enterprises he materially contributed to their exploitation and oppression.

He proudly testified on the witness stand that he had saved the economic enterprises 10 million marks through the advice he had given them. It does not appear that this advice anywhere along the line included any plea for better food and treatment for the inmates.

Hohberg knew that in the infamous OSTI operation Jews were killed:

“A. * * *. I have seen from the documents that actually the position was that utilization of the Osti later on, when the Jewish inmates had been taken away, became quite impossible; and these Jews were killed apparently at Himmler’s orders; but their killing cannot have been the primary intention because otherwise there would have been no point in establishing these enterprises.

"Q. Let me ask you this, at the time that you participated in this conference about OSTI, did you already know at that time that Jews were being gassed in Auschwitz?

"A. Yes." (*Tr. p. 4518*)

He knew that the taking of the Jewish property in the "Reinhardt Operation" was outright spoliation and plundering:

"Q. * * * was payment made to those owners for the factories and the machinery which were confiscated by the Reich?

"A. No. I am sure of that. I can guarantee you that now. No. They did not get that. Let's assume, for instance, it was mainly Jewish property; they did not even get a nickel for that." (*Tr. p. 4396*)

He knew about OSTI from the beginning:

"Q. Did you know at that time anything further about the OSTI?

"A. Yes. I knew about the principal and fundamental plans by the first conference which took place in January. During it the three following fundamental points of view were decisive." (*Tr. p. 4391*)

Hohberg's tie with the WVHA was only a contractual one, so that when he learned of the gross crimes being committed by that organization it was within his privilege to depart. He chose, however, to remain, calculating, undoubtedly, that it was to his advantage to remain. He entered the organization in the first place in order to avoid military service.

His witness Max Wolf testified:

"I believe there were three motives which I would like to stress. First of all he was interested in his job, then he had the wish to become more independent and, finally, thirdly, he had the possibility here to be able to dodge the draft." (*Tr. p. 4599*)

Hohberg devoted himself with as much energy to his tasks in staff W that when he left, the office lost much of its importance. Karoli testified:

"* * *. In my opinion, therefore, staff W, as a result of the departure of Dr. Hohberg, had lost a considerable part of its importance." (*Tr. p. 4710*)

It is obvious from all this that Hohberg enjoyed his work with the WVHA. He was proud of the important part he played in the economic enterprises of WVHA, even though this included, through slave labor, the degradation of human beings. His was no insignificant auditor's position. He was an advisor, instigator, planner, and organizer, and he did his job with such verve and ability that when he left, the office he had held diminished in authority and force. He did his job so well that his family was

awarded a pension of 2,000 marks a month. He did his job so well that even after he had left he was called back for consultation. He worked well with Oswald Pohl, the primary criminal of WVHA and concentration camp administration.

Karoli testified:

“I think the fact that Hohberg was an expert—and was regarded as such—made him, in Pohl’s eyes and those of the other office chiefs, indubitably more important when he was consulted in matters of general economic importance to give his opinion.” (*Tr. p. 4753*)

Hohberg may have later repented for the dynamic part he played in the operation of a machine which crushed human beings spiritually and physically, and the Tribunal has given him generous credit for such reformation, but nothing can wipe out the history of his complicity in the nefarious WVHA which operated a human factory of misery, known as the concentration camps.

After a thorough review of all the evidence in the case, the Tribunal finds that the original judgment and sentence should be confirmed and it is hereby confirmed.

LEO VOLK

Dr. Klinnert in his able brief of fifty pages in behalf of his client Leo Volk covers many subjects, but practically they are all related to his main argument, namely, that Volk is not guilty of crime because he was only a soldier doing his duty and that the guilty ones, if there is guilt, were the superiors who issued orders to him. Since, in every military, or civil organization either for that matter, everyone has a superior except the man at the very peak of the pyramid, Dr. Klinnert’s argument, if carried to its logical extreme, would acquit everyone in the Nazi State but Hitler and possibly Himmler. But it is obvious that Hitler and Himmler could never have achieved alone the great destruction they inspired unless they had many coadjutors, helpers, and executants. Control Council Law No. 10, under which this Tribunal operates, specifically states that superior orders are no defense although they may be pleaded in mitigation of punishment.

Leo Volk may have been in himself a rather unimportant figure, so far as the Nazi supreme hierarchy is concerned, but the evidence establishes that he was an essential, integral member of the organization which accomplished crimes, atrocities, and inhumanities unparalleled in the history of the human race. The crime of the concentration camps of the Third Reich is a

crime the whole world knows. This judgment does not suggest that Leo Volk actively participated in the beatings and other ill treatment practiced on the concentration camp inmates, but it does declare, as it did in the original judgment, that he was a vital figure in one branch of the WVHA responsible for the concentration camps of Germany and occupied countries.

Defense counsel very properly says: "The concentration camp policy was a violation of the principles of Christianity." From this statement he argues that Volk could not have participated in furthering the concentration camp policy because Dr. Volk came from a strictly Catholic family. The fact remains, however, that Volk joined the National Socialist party as early as 1933 and never left it, even after its anti-religious program became evident to everyone. That Volk is a kindly person at heart, as counsel points out, is not disputed. Nonetheless he remained part of a system which enslaved, tortured, and killed masses of population in the concentration camps he helped to administer. The fact that the Inspectorate of the Concentration Camps did not come within the framework of the WVHA until April 1942, does not change the fact that concentration camp inmates were used in the SS industries. On 30 April 1942, Pohl said:

"The mobilization of all prisoners who are fit for work, for purposes of the war now, and for purposes of construction in the forthcoming peace, come to the foreground more and more. From this knowledge some necessary measures result with the aim to transform the concentration camps into organizations more suitable for the economic task, whilst they were formerly merely politically interested." (*II/67, Doc. R-129.*)

Dr. Klinnert says:

"1. Some of the industrial enterprises of the branch companies of the DWB, i.e., the DEST G.m.b.H., and the DAW, employed concentration camp prisoners in their plants at a time when the Inspectorate of the Concentration Camps did not yet belong to the WVHA and Pohl was not in charge of the supervision."

This only emphasizes the policy of the industrial enterprises to exploit concentration camp labor regardless of the method of administration. Defense counsel says further that only a very small part of the more than 50 branch companies of the DWB employed concentration camp prisoners during the war. They did, however, use them and Volk was aware of that use. Dr. Klinnert says that Volk had no knowledge of the circumstances which made labor allocation of concentration camp inmates criminal. In this respect Dr. Klinnert falls into the same error committed by his predecessor who, in his trial brief for Volk, said:

"It is therefore very doubtful whether the mere use of prisoners for unpaid work alone is sufficient to comply with the definition of the crime of enforcing so-called slave labor." Here we repeat what was said in the original judgment, following the above observation:

"But, if forcibly depriving a man of his liberty and then compelling him to work against his will without remuneration does not constitute slave labor, then the term has no meaning whatsoever."

Defense counsel states the judgment declared that Volk had visited the Flossenbuerg concentration camp. The judgment did not so state. The episode of the visit to Flossenbuerg is described in the Mumenthey supplementary judgment and need not be repeated here.

Dr. Klinnert denies that Volk knew that "internees of the concentration camps included prisoners of war." Document NO-1292 speaks of the "employment of an increased number of prisoners, prisoners of war and Jews," and not "prisoners of war and internees", as counsel says in his further brief:

"The fact that prisoners of war and internees are mentioned separately, clearly shows that these prisoners of war were in PW camps and not in concentration camps, because otherwise they, too, would have been internees and there would have been no need to name them separately."

But here he overlooks the word "Jew". Using his reasoning, there would be no object in mentioning "Jews" either because they also would have fallen within the larger category of "internees". Nor is his argument convincing that it was not proved that Volk knew of this document, even though the accompanying letter bore the receiving stamp with Volk's initials. One signs one's initials for a purpose and the only purpose here would be to show that Volk had noted the contents of the document.

Defense counsel also says:

"According to the verdict the tribunal has seen a significant feature of evidence with regard to slave labor in the fact that the internees were not paid for their work. This was not known to Dr. Volk either. This knowledge has not been asserted in the verdict."

Since the nonpayment of concentration camp inmates was a fact established in the general opinion, it was not necessary to mention it specifically in Volk's judgment. Since it was proved in this case that the defendant participated in the exploitation of concentration camp labor, that finding necessarily included the finding that he knew the inmates were not paid, for this constituted an integral part of the charge of slave labor.

It has been argued that Volk could have assumed that internees were paid but as a legal expert for DWB it would have been impossible for him to have accomplished his tasks over a period of years without knowing the facts in connection with so important an item as the matter of financial expenditure for wages, if there were any.

Defense counsel says:

“As has been stated in the verdict, it must also have been established that Dr. Volk consented to the exploitation of the internees, that he—in the words of the verdict—supported the system of exploitation of the concentration camp internees and the concentration camp policy.”

The judgment found that Volk supported the concentration camp policy. It is no excuse to say that Volk was working for the holding company and did not employ any internees when it is known that the subsidiary companies, without which the holding company could not exist, employed concentration camp labor.

Dr. Klinnert says that Volk was never deputy chief of staff W, but in this connection reference is made to Document NO-3831. Under the heading, “Specification of the fields of work,” this item appears: “Work domain of the deputy chief W, SS Hauptsturmfuehrer Dr. Volk: deputy for the chief W.”

Defense counsel attacks the validity of this document but his predecessor, in making his final argument to Court, practically admitted that Volk was deputy, for, in arguing that Volk was not the chief of staff W, he said: “From the wording of the document, too (another document) it follows that Dr. Volk was only a deputy.” (*P. 37, final plea.*)

It is to be observed also that during the absence of Hohberg, Volk, for one month, functioned as chief of staff W.

It is not correct, as defense counsel says, that Volk had no influence over the business management of the holding company since he handled only legal affairs. (Further brief 14.) Paragraph 2 of Volk’s contract with the DWB read: “It is Herr Dr. Volk’s deputy to manage the business transactions of the DWB (German Economic Enterprises) with the care as befits a proper business man.”

This document also negates the argument that Volk’s job was a compulsory military one, leaving him no choice. Paragraph 7 of the contract stated:

“Herr Dr. Volk has the right after accepting a public position, to terminate the contract by giving 3 months notice in agreement with the chief manager of the DWB (German Economic Enterprises). The DWB (German Economic Enterprises) has the right to impose a fine, censure, or compensation up to

the amount of half a month's salary if Herr Dr. Volk contravenes the above-mentioned regulations. Herr Dr. Volk is not entitled to make a complaint in court."

Defense counsel states that if Dr. Volk "has shown full understanding of the nature of the SS enterprises, this in no (way) proves committance of a criminal act." But cognizance of the criminality of an operation and a continued participation in the administration of that operation brings the administrator within the scope of an illegal act. Otherwise it would mean that the man who plans a fraudulent bond transaction would be excused from responsibility simply because he did not actually deliver the false certificates.

The judgment did not say, as defense counsel declares, that Volk held a leading position in a subsidiary firm, but it did say that Volk was syndicus of the Portland Cement Company. Defense counsel denies that Volk was appointed syndicus as the judgment states. In this connection reference is made to Document NO-3909 which states:

"Poznan, 18 February 1943

"For the completion of your files I report that as of 29 October 1942 the following have been appointed:

"1. *Members of the Aufsichtsrat.*

Ministerialdirektor Oswald Pohl, Berlin to be chairman of the Aufsichtsrat.

"Diplom-Kaufmann Georg Loerner, Berlin to be deputy chairman.

"Diplom-Ingenieur Dr. Hans Kammler, Berlin.

"*Syndikus Dr. Leo Volk, Berlin.*"

Defense counsel makes a point of the fact that "Volk had no control over the internees." It was not claimed by the prosecution, nor found by the judgment, that Volk directly controlled internees. If this had been established, Volk's sentence would have been far severer because in that event he would have been directly charged with the inhuman treatment accorded the internees. The extent of his participation in the inhuman treatment accorded internees was a "consenting part," as defined in Control Council Law No. 10.

Defense counsel denies for his client all responsibility for internee employment by saying that his duties necessitated his "almost continuous presence in the Konzern's offices in Berlin." But the evidence reveals, and defense counsel even refers to the fact, that Volk made various trips into the field in connection with his work.

That the Inspectorate of the Concentration Camps was not part of the WVHA until January 1942, is of no great consequence in

determining Volk's guilt. It was part of WVHA for over three years while Volk functioned in the WVHA set-up. It is also obvious that there was an active cooperation between the Inspectorate and the SS Industries prior to the amalgamation in January 1942.

The constant assertion that Volk had nothing to do with concentration camps is refuted many times in the evidence. The very document which defense counsel quotes in this respect shows the contrary. In Dr. Volk's memorandum of 12 January 1942 (quoted by defense counsel, p. 24), this passage appears:

"With the funds invested in the concentration camp, the Vistula SS administrative district intends to finance the settlement which is to be set up for SS men, thus requiring the major portion of the money which has been used for the erection of the KZ [concentration camp]."

The judgment made reference to Volk's visit to Lodz with regard to considering whether the ghettos there should be converted into a concentration camp, thus showing Volk's familiarity with concentration camp matters. The concentration camp project did not materialize and from this defense counsel draws the following conclusion:

"These statements in themselves prove that Dr. Volk could not have supported the KZ policy. By his attitude he only opposed such a policy, with all his power. What else could Dr. Volk have done to demonstrate more clearly his opposition to the KZ policy?"

But it was not because of Volk's opposition to a concentration camp policy that the Lodz project was abandoned. The reason was a grimmer and more tragic one. It was decided, as the result of the conference, that the concentration camp project would not be a profitable one. Document NO-519 states that the population of Lodz in 1944 was 80,062 Jews, of which 5,363 were children. The reductions by death were 500 per month or 6,000 per year. In Gauleiter Greiser's report of 9 February 1944, the following significant items appear:

"a. The personnel of the ghetto will be reduced to a minimum and retain only the number of Jews essential to the interest of the armaments industry.

"b. The ghetto therefore remains a Gau ghetto of the Reich Gau Wartheland.

"c. *The reduction will be carried through by the special SS detachment (Sonderkommando) of the SS Hauptsturmfuehrer Botmann which already had prior activities in the Gau. The Reich Leader will give orders to withdraw SS Hauptsturmfuehrer Botmann and his special command from his mission*

in Croatia and again place him at the disposal of Gau Wartheland.

"d. The disposal and valuation of the contents of the ghetto remains in the hands of the Reich Gau Wartheland.

"e. *After removal of all Jews from the ghetto and following the dissolution of it, the entire grounds of the ghetto are to go to the town of Lodz.*" [Italics supplied.]

Volk would have the world believe that he knew nothing about concentration camps. On 12 January 1942, he wrote a memorandum on the Stutthof concentration camp project. The memo contained the following paragraph:

"The Deutsche Wirtschaftsbetriebe G.m.b.H. get from the forestry administration the *ground which is necessary for building the concentration camp.* The square meter for this, according to the preliminary negotiations, shall cost 0.15 RM. As soon as the Deutsche Wirtschaftsbetriebe has obtained the ground they sell the *entire concentration camp*—insofar as it is built by this time—to the Reich at the estimated price."

No intelligent person could fail to know in 1942 that concentration camps under the Reich were places where people were not only denied their liberty but subjected to cruel and degrading treatment, perilous to health, limb, and life.

Defense counsel argues that Volk contracted with the DWB for his services because otherwise he would have had to do military service. But when it became evident to him that DWB was engaged in a criminal enterprise, he could at any time have denounced his contract and entered the military service. He cannot absolve himself from criminal responsibility by complaining that if he had not taken the civilian work he would have had to join the colors. Many of his countrymen were themselves being called to the military service. In time of war no one's life is a bed of roses, but one can at least keep one's conscience clean and avoid the stigma of war crime by declining to participate in obvious crimes against humanity.

Defense counsel argues:

"If he had been an important man in Amtsgruppe W, as the reasoning of the judgment tries to show, he would necessarily have had a military service grade which would have enabled him to issue instructions to the individual office chiefs."

In the first place, the grade of army captain is not an insignificant one, and in the second place, Volk's crime does not arise out of his having given orders to any one, but consists of his voluntary participation in a criminal project.

It is denied that Volk had anything to do with the OSTI enterprise or the Action Reinhardt. The judgment does not con-

vict Volk of active participation in either of these nefarious enterprises, but it does declare Volk's knowledge of the nature of these transactions, all of which goes to negate Volk's contention throughout the trial that he was entirely innocent of the criminal ventures in which WVHA was constantly engaged.

On 30 July 1948 defense counsel filed a brief in addition to the one which has just been discussed. This additional brief argues the matter of the Court's declaration of 15 August and the Court order of 13 October regarding trial briefs. One of the reasons why the Tribunal reconvened was to give defense counsel an opportunity to file reply briefs to the prosecution briefs. Defense counsel has pointed out that the prosecution trial brief declared that the task of coordinating and directing W industries at the top level was the task of staff W and that the judgment came to the same conclusion. The similarity of language between the prosecution brief and the judgment in this respect is of no consequence so far as guilt is concerned as the conclusion reached by the Tribunal is based on the evidence in the case, and which fact defense counsel does not deny. This statement was taken by the Tribunal not from the prosecution brief but from one of the documents in the case.

"According to this identity in the field of production, the single economic enterprises maintained by the SS are united in the offices W I-VIII. *At head of these offices stands the W staff of the SS Obergruppenfuehrer Pohl regarded from the point of view of private economies the Deutsche Wirtschaftsbetriebe G.m.b.H.*" (Doc. NO-1016, II/108.) [All italics supplied.]

With regard to the judgment's conclusion that the defendant, because of his numerous positions, at times was not aware himself in which capacity he was functioning at the particular time, reference is made to his own statement on the witness stand:

"Q. Then, were you handling this matter as the personal referent of Pohl or as legal expert in Amtsgruppe W?

"A. Well, that's difficult to say that. You could say in both capacities, actually. Mr. Prosecutor you know I would like to tell you in advance that even my secretary did not always make a difference between the two. She wrote letters, sometimes under staff W and sometimes under personal Referent and, if I didn't pay good attention, then the letters were sent out under the wrong heading. *I really could not judge the matter so severely and differentiate between the two.*" (Tr. p. 5185)

The defendant was not in any way prejudiced by the misunderstanding which brought about the confusion in the matter of filing briefs because the judgment was founded on the record and not

on statements in the brief. Nonetheless, since the point was raised by defense counsel and so that no possible injustice could result because of the defendants not filing a reply to the prosecution briefs, this opportunity has been afforded the defendant to file additional briefs which he has now done twice.

In reply to the prosecution's brief, defense counsel, in his second further brief mentions four points. Number one has already been explained in the Mummenthey judgment as heretofore stated. Numbers two and three were already discussed in the defense counsel's final plea and were considered in arriving at the original judgment. The Tribunal sees no reason to change its conclusions with regard to these two items.

With regard to number four, the Tribunal has found from all the evidence that Dr. Volk's activities within the WVHA clearly established that he took a consenting part in the commission of crimes against humanity. This matter has also been discussed at some length in this supplemental opinion.

Defense counsel stated in his second further brief:

"If one denies any personal initiative on the part of a general, as chief of staff of an army, in action which he takes within his sphere of jurisdiction by virtue of his position because solely the commander is responsible, then this principle should be applied to Dr. Volk who could not possibly have acted on his own initiative in the DWB G.m.b.H."

The answer to this is a simple one. If the chief of staff simply performs military duties, he commits no crime, but if he himself violates the rules of war and the laws of humanity as established by international law he is responsible. Field Marshal Keitel, Chief of the High Command of the German Army [Armed Forces] was found guilty of war crimes and crimes against humanity and was convicted and executed even though he claimed that he had committed all his acts under the order of Hitler.

After a thorough reconsideration of the entire record in the case of Leo Volk, the Tribunal finds no reason to disturb its judgment of 3 November. The judgment and sentence against Leo Volk are therefore reaffirmed.

KARL MUMMENTHEY

On 16 November 1947, defense counsel for Karl Mummenthey filed a petition with the Military Governor for modification of sentence imposed on his client, alleging therein certain errors on the part of the Tribunal. On 12 July 1948, as the result of the order of the Tribunal defense counsel filed a "memorandum" in which much of what was argued in the petition for modification

of sentence was repeated. Since the former presentation is the longer one and covers practically everything mentioned in the latter, the Tribunal will take up from the petition the various matters advanced by defense counsel as error.

Defense counsel is of the impression, or at least so argues, that preference was given to the prosecution over the defense in the matter of consideration of arguments respectively submitted. At the termination of the trial, defense counsel submitted a written argument of 33 single-spaced typewritten pages which covered most thoroughly and ably the case of Karl Mummenthey. The prosecution, in its closing summation of 73 pages against *all* the defendants, devoted less than 2 pages to the case of Karl Mummenthey. To supplement this meager treatment of Mummenthey's case, a trial brief which analyzed the evidence as it applied particularly to Mummenthey, was submitted by the prosecution. In both his petition and his memorandum, defense counsel makes much of the fact that five sentences or phrases taken from the judgment bear some resemblance to phraseology in the prosecution's trial brief. Since the material used by both the prosecution and the Tribunal, as well as the defendant, was necessarily all the same material, it is not so extraordinary that the Tribunal's findings should in some instances parallel the contentions of one or the other of the litigants. It is not contended by defense counsel that anywhere in these five fragments of similarity, the statements made by the Tribunal are not supported by the evidence. In one instance, a sentence taken from the judgment uses almost identically the same language employed by the defendant himself on the witness stand. In speaking of the defendant's efforts to ascertain whether inmates were paid, the Tribunal said that the defendant said: "He tried to find out but never got a satisfactory answer." The defendant's actual words in Court were: "I tried to find out * * * but I was never given a satisfactory reply." (*Tr. p. 5605.*)

In view of the Court order of 13 October defense counsel were entitled either to file replies to the prosecution briefs or the prosecution briefs should be disregarded. However, any use of the prosecution briefs prior to the order of 13 October could not in any way prejudice the defendant's cause since, as heretofore pointed out, the briefs could only speak of evidence already within the knowledge of the defendant as much as it was within the cognizance of the prosecution.

Nonetheless, since some ambiguity did result about the entire matter of filing trial briefs, the Tribunal resolved to reconsider its whole judgment so that no defendant could by any chance suffer through the lack of having filed every argument he desired

to file. Thus defense counsel for Karl Mummenthey, as all other counsel, were informed on two different occasions to file further briefs if they chose to do so. Defense counsel for Mummenthey filed what he called a memorandum in which he repeats some arguments made in his petition which already covered fifty pages.

In the reconsideration of this case, the Tribunal now excludes from the evidence the letter allegedly written by Mummenthey on 2 May 1944 to the codefendant Baier. The prosecution has acknowledged that although it had stated in open court that it intended to present this document, it did not, through an oversight, actually present the document.

Defense counsel in his petition, after making the statement, "The following immediately refutable findings are chosen at random," enumerates certain alleged errors in the findings, which will now be taken up seriatim:

a. "In 1934 Mummenthey did not join the General SS, but the riding units of the SS."

In this respect, reference is made to Karl Mummenthey's own testimony, in which the following appeared:

"Q. * * *. You joined the SS in 1934, is that right?

"A. Yes.

"Q. That's the Allgemeine SS?

"A. Reiter SS and *Allgemeine SS*." (*Tr. p. 5680.*) [All italics supplied.]

b. "Mummenthey did not enter the administrative office as legal advisor, but as a legal assistant."

In this connection, reference is again made to Mummenthey's own statement:

"In the legal department of the administrative office of the SS, I worked mainly on *giving expert opinion* on contracts of all types." (*Tr. p. 5518.*)

There can be no doubt that one who gives expert opinion is certainly a "legal advisor."

c. "Mummenthey did not arrange with Salpeter to be taken into the Waffen SS in order to avoid being drafted into the army. Rather, he was drafted into the Waffen SS at the instigation of Salpeter."

Again we will look at Mummenthey's own words to support the statement in the opinion:

"* * *. In the year of 1940, since I had served with the Wehrmacht, I received an order to report to a rifle battalion, and I received that from the army corps area, Berlin-Wilmersdorf.

I submitted this order to report for military service to Dr. Salpeter, and he told me that this was completely out of the

question. *He told me that a different settlement would be reached, and then he saw to it that I was conscripted into the Waffen SS.* At the same time I was put on detached service in order to work for the DEST. (*Tr. p. 5666*)

"* * *. In my opinion, my conscription into the Waffen SS was to serve the following purposes. One, persons who worked in the economic field were not to be subjected to the jurisdiction of the SS; two, these people were to be declared indispensable in this way. That is to say, *this was to prevent their being conscripted by any military agencies.*" (*Tr. p. 5667.*)

d. "The Bohemia was not subordinated to office W I, but was only attached to it."

Whether the Bohemia establishment was subordinated to Office W I, or only "attached", as defense counsel argues, is of little moment. The fact remains that it came under the jurisdiction of office W I.

"From the fall of 1941 the direction of the so-called office W I and the leadership of the DEST and also *Bohemia* and Allach, which at that time from the organizational point of view, had been included in the DEST, were in the hands of Opperbeck and myself * * *. In this connection I would like to state that immediately after the departure of Dr. Salpeter the *Bohemia*, Allach, and Forbach, which actually did not belong in the DEST, by order of Pohl were included in a group of firms with the DEST." (*Tr. p. 5529.*)

On page 5704 of the transcript, prosecution counsel asked Mumenthey "the largest number of inmates employed in these 14 enterprises of DEST, and also *Bohemia* and Allach." Mumenthey replied that the total figure was approximately between 14 and 15 thousand. Further:

"Q. Now, how did W I control and check on the operation of these plants? One way was that you made trips to the plants frequently, isn't that right?"

"A. Yes. As a business manager of the DEST, yes."

All this certainly indicates that Mumenthey regarded the Bohemia plant as being subordinate to W I. There would be no point in his making inspection trips to these plants unless they were subordinate to the direction and control of his office.

e. "Kruse did not declare that the death rate in the camp was from 8,000 to 12,000, but only said 'from 8 to 12 percent'; therefore the death rate did not climb up to 20,000, but only to 2,000."

The testimony of the witness Kruse on this subject is as follows:

"* * *. The monthly death rate in the camp of Neuengamme

amounted to probably between 8 and 12 percent. He also mentioned that during the construction time of the Clinker Works, the death rate had climbed up to 20 percent, particularly during the winter months. I also remember that he said, 'Once we had 1,200 dead this month'—and I believe that was in the month of January 1943."

Due entirely to a typographical error in the final stencilling process, the "8 to 12 percent" became 8 to 12,000 and the "20 percent" became 20,000. In considering the case of Karl Mummenthey, the Tribunal accepted the testimony as it was actually given by the witness, namely, 8 to 12 percent and 20 percent. It did not consider the typographically incorrect 8,000, 12,000 and 20,000. It did, however, take note of the 1,200 dead referred to by the witness. It is to be observed in this connection that, so far as criminality is concerned, the guilt would be no less if Mummenthey were responsible only for 1,200 instead of 20,000.

f. "Mummenthey only admitted that he personally dealt with labor allocation when this was necessary."

Of course, to say that Mummenthey only admitted dealing with labor allocation when necessary is begging the question because certainly he would only ask for inmates when it would be necessary. It was not contended by the prosecution or found by the Tribunal that he used inmates when they were not necessary. The fact is that Mummenthey *dealt* with the matter of labor allocation:

"Here we dealt with the office D II with regard to all questions arising out of the inmates. We dealt with them whenever locally no agreement could be reached." (Tr. p. 5720.)

g. "Mummenthey did not say that the workers were well fed, but said that they were adequately fed in consideration of war conditions."

Mummenthey certainly intended to convey the impression that, insofar as he was concerned, the workers of DEST were well fed. Even defense counsel went on the record as saying, in commenting on Mummenthey's testimony in this regard, that the inmates received four times the amount of food received by Germans today. (*Tr. p. 5619.*)

Mummenthey testified that he saw the workers at lunch and observed that most of them could get second helpings. (*Tr. p. 5625.*) He said that the food was served warm because he could see the hot steam rising from the special containers. (*Tr. p. 5654.*) Testifying to the appearance of the inmates, Mummenthey said: "I would like to say that they were well rounded." (*Tr. p. 5712.*)

Defense counsel declared that the Tribunal "levelled most de-

rogatory criticism at Mummenthey" and "compared him to a robber and murderer." This statement is utterly without foundation. What the Tribunal said in this connection was the following:

"Mummenthey's attorney in his final argument before the Tribunal said: 'Without the connection with its Holding-Gesellschaft and Pohl's power of command, and without Mummenthey's membership in the SS, the DEST and thereby Mummenthey also, would hardly have to defend themselves before this forum.' But it is precisely this which condemns Mummenthey. It is like saying that were it not for a robbery or two, a robber would not be a robber. It was Pohl's command, and by his command the entire WVHA is involved, plus Mummenthey's command as an SS officer, which made DEST what it was, an organization engaged in human slavery and human degradation."

Defense counsel states that the Tribunal did not give sufficient consideration to the witness Bickel's estimate of Mummenthey. Bickel did have words of commendation for Mummenthey, but it is not to be overlooked that although Bickel was a defense witness, he testified in the most graphic language to the atrocities, sufferings, beatings, starvation, and deaths in concentration camps, including Mummenthey's own plants. Nor did he spare Mummenthey completely. He was asked by prosecution counsel:

"Witness, didn't the defendant Mummenthey know from these monthly reports or otherwise gain knowledge of the high death rate, of sickness, of poor food, clothing, and bad physical condition of the inmates?" (*Tr. p. 5482.*)

And the witness replied:

"About the bad conditions of the inmates he must have had knowledge."

Defense counsel states that the Tribunal disregarded Bickel's testimony that the "plant and the plant management are not responsible for any deaths." However, Mummenthey, in addition to being business manager of DEST, was also chief of Amt W I. In this connection prosecution counsel asked Bickel if office W I would not know because of the high death rate in the Clinker Works there was being almost a complete turn-over of employees every year. And Bickel replied:

"Office W I, of course, would obtain knowledge about the problem which you have just described. It would hear about the following: the form and extent of the mechanization in the Clinker Works made it very desirable and required that the number of employees remained the same. However, the inmates where the mortality rate was extremely high, as well as concentration camp inmates, were included in the mortality

rate. The inmates who worked in the mechanized part of the plant had a lower death rate than the inmates who worked outside." (*Tr. pp. 5480-5481.*)

He did say later that he believed Mummmenthey was told lies about the high mortality rate, but if the statement is true, it still does not excuse Mummmenthey from the grave responsibility of ascertaining what was happening to his employees.

Defense counsel says that the opinion in the Mummmenthey case was "one-sided," as in contrast to the opinions in all other cases. This assertion is obviously a gratuitous view because the sentence imposed on Mummmenthey was not as severe as that imposed on several other defendants.

After complaining that the judgment treated Mummmenthey harshly, defense counsel then points out the statement in the judgment:

"* * *. He (Mummmenthey) is too lacking in imagination to conjure up the planning of murder and equivalent enormities."

It is precisely for this reason that the sentence in Mummmenthey's case was not capital. Defense counsel, in questioning his client, occasionally made some chiding remark about his client's phlegmatism. (*Tr. p. 5611.*) Whether it was because of Mummmenthey's lack of awareness, or whether it was just wanton indifference on Mummmenthey's part, which contributed to the enormities in the DEST establishment under Mummmenthey's active direction, is immaterial. He was the responsible person. He did not even deny this:

"Q. * * * do you accept the responsibility for operation of the DEST enterprise?

"A. I was a co-business manager of DEST German Earth and Stone Works and, in that capacity, which according to commercial law, namely according to G.m.b.H., I have to bear the responsibility for it." (*Tr. pp. 5682-84.*)

The witness Kruse, to whom defense counsel referred, spoke of the treatment accorded concentration camp inmates in the Klinker Works which belonged to DEST:

"* * *. If an inmate collapses while he was working, which was absolutely natural due to undernourishment there and it was a daily occurrence, then he was thrown into a closed in area, closed in by barbed wire, in which daily there were between ten and thirty inmates, and they had to lie there on the bare earth regardless of whether it was winter or summer. (*Tr. p. 451.*)

"Q. Now, were beatings a frequent occurrence on the works?

"A. Beating was a daily occurrence in the Klinker Works." (*Tr. p. 452.*)

Working in this establishment for 2½ months his weight decreased from 136 pounds to 90 pounds. Had he remained there 3 or 4 weeks longer he “would have gone through the crematory.”

Mummenthey visited the DEST factories, conferred with the works managers, saw the inmates, and cannot plead ignorance to the inhuman treatment which no one can seriously deny was administered to concentration camp inmates.

Defense counsel argues that to charge Mummenthey with responsibility for conditions existing in the plants under his direction would be the same as charging “all members of all nations” with “crimes against humanity because they blinked at the commission of inhuman acts of their own nationals or those of other peoples.” This statement ignores the fundamental fact that Mummenthey was *legally charged* with responsibility for the people under *his* direct management and control.

Defense counsel states that in contrast to the concluding opinion in the cases of the other defendants, the judgment does not contain the statement that the findings were established beyond a reasonable doubt. Defense counsel completely ignores what the Tribunal said on transcript pages 8059-60 in this regard:

“Every defendant in a criminal case is presumed to be innocent until the prosecution by competent and credible proof has shown his guilt to the exclusion of every reasonable doubt. This presumption of innocence follows him throughout the trial until such degree of proof has been adduced. * * *

“If any defendant is to be found guilty under counts two or three of the indictment, it must only be because the evidence in the case has clearly shown beyond a reasonable doubt that such defendant participated as a principal in, accessory to, ordered, abetted, took a consenting part in, or was connected with plans or enterprises involving the commission of at least some of the war crimes and crimes against humanity with which the defendants are charged in the indictment. Only under such circumstances may he be convicted.

“If any defendant is to be found guilty under count four of the indictment, it must be because the evidence has shown beyond a reasonable doubt that such defendant was a member of an organization or group subsequent to 1 September 1939, declared to be criminal by the International Military Tribunal, as contained in the judgment of said Tribunal.”

Thus it was not necessary to repeat in Mummenthey’s judgment, as it was not stated in many of the other judgments, that Mummenthey particularly was guilty beyond reasonable doubt. This criterion is a *sine qua non* to the finding of guilt.

Mummenthey admitted that people, held in concentration camps against their will, were compelled to work without remuneration. This, of course, is slavery. But defense counsel argues:

“Neither was it Mummenthey by any means who first made the DEST an inmate-worked factory, but he found this enterprise an inmate-worked plant when he entered upon his duties.”

However, no authority is needed to establish the point that continuing a crime initiated by someone else does not exonerate the perpetrator of the offense.

Defense counsel states:

“It is a matter of course that a certain connection between the management of the DEST and thereby also Mummenthey’s on one hand and the inmates problem on the other hand cannot be denied. This connection, however, was limited to the employment of prisoners in the plants.”

Even if Mummenthey’s responsibility were limited to the employment of prisoners in the plant, this would be sufficient to convict him of war crimes and crimes against humanity because this is slave labor and nothing else. Defense counsel seems to forget that it is contrary to international law, municipal law, and to humanity and morals to deprive innocent people of their liberty and their well-being and because of these two deprivations, possibly deprive them also of their lives.

Defense counsel says that Mummenthey did not use the words “not improper” in connection with the subject of protective custody in concentration camps. Nor did the judgment charge him with the use of that phrase. It did impute to Mummenthey criminal knowledge of what was taking place under his eyes. Mummenthey seemed to think, and apparently his counsel agrees, that Mummenthey could be excused from responsibility by saying that he believed the Gestapo was a legal body, and that everything which Hitler and Himmler did were legal. Mummenthey’s whole attitude on this subject can be gathered from his statement rather nonchalantly uttered:

“The fact about an internment in the camps as such did not seem something particularly important or something extraordinary to me.” (*Tr. p. 5576.*)

Defense counsel says:

“One would look in vain, in the opinion of the Mummenthey case, for a single exhibit or compelling sentence to show that foreigners or prisoners of war were employed in the DEST plants.”

The fact that this is not mentioned in the opinion does not mean that the evidence against Mummenthey on this point was not considered. The finding of guilt is based on the *entire* record,

for it would be manifestly impracticable to quote all the testimony or even refer to all of it in the judgment. The evidence that foreigners and prisoners of war were used in the DEST plants is to be found in Mummmenthey's own declarations on the witness stand.

"All I know is that in the Bohemia and in the quarry of Mauthausen, prisoners of war were being employed or were to be employed; and in the last case in order to educate them. (*Tr. p. 5582.*)

"I can only speak from the point of view of where I was at the time. That is the only way I can tell you about my recollection. Among the inmates in the plant at Oranienburg there were also foreigners. (*Tr. pp. 5637-38.*)

"There were factories, for instance, the factory of the Messerschmitt Works, where the whole plant was full of foreign workers. (*Tr. pp. 5638-39.*)

"Q. How many DEST plants were engaged in making war material?

"A. Flossenbuerg, St. Georgen with plane parts, Oranienburg with hand grenades, and Rothau was working with the taking apart of airplane motors. I do not know if you can call that part of armament activities. I believe so.

"Q. And in these plants that you just mentioned, inmates were employed?

"A. Yes.

"Q. And foreign inmates were employed?

"A. Yes, quite so. (*Tr. p. 5657.*)

"I heard about the fact that prisoners of war were to be used; however, to what extent this was actually done, I don't know. (*Tr. p. 5725.*)

"Q. Did you ever request prisoners of war for use in the DEST enterprises?

"A. Negotiations took place on one occasion with a prisoner of war camp about the procurement of prisoners of war. However, as far as I can recall, this plan was never carried out.

"Q. Well, you tried to get them, but you failed, is that it?

"A. Yes. This plan was disapproved.

"Q. And where were you going to use these prisoners of war?

"A. In my opinion, they were to be used at Neurohlau. (*Tr. pp. 5738-39.*)

"These prisoners of war worked for Bohemia, and then later the labor office withdrew them. I didn't consider the employment of these prisoners of war to be incorrect because after all they were manufacturing porcelain goods here." (*Tr. p. 5740.*)

Defense counsel seeks to convey the impression in his petition

to the Military Governor that DEST employees obtained remuneration. He states:

"The DEST paid a voluntary bonus to the inmates, which amounted to approximately one-third of the inmates' wages paid to the Reich."

Commenting on this, it is enough to quote from the defendant himself:

"A. I took the attitude toward Dr. Salpeter and the managers that between DEST and the inmate no contract existed which is the reason DEST was not under obligation to pay wages. It was up to Reich to pay some compensation to the inmates from what DEST paid to the Reich by way of compensation for inmates, and we regarded it as contribution to various expenses borne by the Reich. (*Tr. p. 5596.*)

"Q. Why, you managed the industries that used these men to work, a number of industries, didn't you?

"A. Yes.

"Q. And you mean to say that you have no idea whether these inmates got any money for their labor or not? Now, do not be ridiculous, answer truthfully.

"A. Mr. President, from what I knew at that time I cannot say how the concentration camp gave anything to the inmates. All I can tell is what I saw from my own sphere of work. (*Tr. p. 5603.*)

"Q. I am glad that your eyes have been opened. Now, that they are open, are you convinced that the inmates got nothing but food and shelter for their 11-hours-a-day work? Do you believe that now?

"A. I am convinced of this today. Yes.

"Q. All right. Well, I call that slavery. What do you call it?

"A. Looking backwards, you can call it that, yes, retrospectively. (*Tr. p. 5603.*)

"JUDGE PHILLIPS: Well, looking back from today, speaking as one member of this Tribunal and only for myself, if you had as much to do with the workings and the labor of as many concentration camp inmates as you admit that you did have, you are in grave danger of being guilty of criminal negligence in not finding out more than you did find out. A man can't sit idly by and have things like this happen and say, 'I didn't know', when he could have found it out by reasonable diligence." (*Tr. p. 5604.*)

It would seem that defense counsel sees every wrong in the judgment. Taking up the judgment's reference to Mummmenthey's connection with OSTI, defense counsel says:

"First of all the quotation is given incorrectly, in spite of

having been established repeatedly in the evidence, in as far as in the original communication of 21 June 1944, it does not say: 'by' Mummenthey but 'via' Mummenthey (NO-1271, Pros. Ex. 491) * * *."

But the judgment actually reads: "Mummenthey had to know of OSTI and its nefarious program. The final audit of OSTI was prepared by one Fischer who said in his statement of the audit: 'I received through SS Obersturmbannfuehrer Mummenthey the order to audit the Ostindustrie.'" (Tr. p. 8186.)

The first sentence in Document NO-1271, from which this quotation was taken, reads:

"In April 1944 I received through SS-Obersturmbannfuehrer Mummenthey the order to audit the Ostindustrie * * *."

As to the Action Reinhardt, it was not asserted in the judgment, nor was it claimed by the prosecution that Mummenthey actively participated in the action proper, but it did say that DEST derived some benefits from the Action Reinhardt. In this connection defense counsel put the following question to his client:

"In the course of this trial the words 'Action Reinhardt' and 'Reinhardt fund' has been used repeatedly. And in particular the DEST has been connected insofar as the loan from the Gold Discount Bank was granted. And all those loans were to have come from the Reinhardt fund through the knowledge of DEST. What do you know about that?" (Tr. pp. 5663-64.) And Mummenthey replied:

"Two loans by the German Gold Discount Bank were granted in 1939 and 1941."

The knowledge which Mummenthey possessed of the Action Reinhardt is not one of the major items of proof of criminality against him. Nevertheless, it is not correct to say, as defense counsel says, that because a crime has been completed no further crime may follow from it. Receiving stolen goods is a crime in every civilized jurisdiction and yet the larceny, which forms its basis, has already been completed.

Defense counsel states:

"Nothing is farther from my mind than to want to palliate the deeds of men who—no matter what their motives may have been—have debased the German reputation in the world."

He thus admits that crimes were committed in the concentration camps and the slave industries associated with them. If there were crimes, then there was responsibility, and who are the responsible ones? Karl Mummenthey is one of them. In the zeal of representing his client, defense counsel ignores the statements made by Karl Mummenthey himself. What kind of a mentality

is it that declares, as Mumenthey did on the witness stand, that these poor beaten, starved wretches in the concentration camps worked "with willingness and love?" (!) To physical injury Mumenthey thus added criminal impertinence. After Mumenthey's extraordinary utterance about love, he was asked by the Tribunal:

"How can you say, Witness, that any man would love to be in prison and to work for months or years for nothing? Do you think any man would be happy to be imprisoned and work every day and get nothing for it?" (*Tr. p. 5634.*)

And he replied:

"Your Honor, I can only tell you what I can remember about those things at the time. Just as I stated before, that's the way it was."

Defense counsel speaks of Mumenthey's "sympathy" which "springs from his deep human feelings." Yet, with all those sympathies he made the following utterances from the witness stand:

"A. I couldn't possibly have a fundamental misgiving against the compulsory labor on the part of the concentration camp inmate in the concentration camps. (*Tr. p. 5579.*)

"Q. Oh, yes, before you leave the subject; you said that you assumed that anything that the Gestapo did was legal?

"A. Yes.

"Q. Well, then, of course you assumed that anything that Hitler or Himmler did was legal?

"A. According to my opinion at the time, yes. (*Tr. pp. 5579-80.*)

"Q. * * *. You didn't see anything illegal in the employment of inmates, is that correct?

"A. Yes. (*Tr. p. 5580.*)

"THE PRESIDENT: If you saw an inmate using a prisoner of war uniform designated as a prisoner of war, and working on munitions, you would have said: 'Well, it must be all right, it is legal.'

"A. At the time I'd have to assume that." (*Tr. pp. 5584-5.*)

In his memorandum filed 12 July defense counsel refers to a statement in the judgment against Volk, taking issue with the utterance therein:

"On 1 July 1943, Mumenthey wrote the commandant of the concentration camp at Flossenbuerg that he and Volk were coming to visit him and specifically asked him to make arrangements so that Volk could visit the camp."

The letter referred to appears in Document NO-1030 and the disputed passage reads:

“As SS Hauptsturmfuehrer Dr. Volk does not yet know Flossenbuerg and would like to get to know it, we will * * *.”

In the English translation the pronoun “it” appeared as “camp”. Although admitting that this was an incorrect translation, the prosecution insisted that the sense of the entire declaration obviously made it mean camp. Mummenthey said that the letter referred “to the visit of the plant of Flossenbuerg of DEST.” Defense counsel argues to the same effect, but there is nothing in the letter to bear out this interpretation. On the other hand, the interpretation given the letter by the prosecution is the more logical one. Flossenbuerg is a village of from 1,000 to 1,500 population. There is no reason why Volk would want to make a special trip to see the village itself. The important thing about Flossenbuerg was its concentration camp. The defendant admitted that if they wanted to make the trip to the village of Flossenbuerg it certainly would not be necessary to get the permission of the concentration camp commander to do so. (*Tr. p. 5699.*)

Mummenthey not only took an active part in the management of DEST but he revealed a lively interest in the concentration camps themselves. The affidavit of Franz Josef Pister, former commander of the Buchenwald concentration camp, contained this item:

“The commander conferences, which took place at intervals of 3 to 4 months, opened on the first day, mostly beginning at 1500 hours, under Pohl’s direction, in the WVHA in Berlin: besides the commanders of the main camps, sometimes all the Amtsgruppen chiefs and Amt chiefs, who were concerned with concentration camps were present. To these participants belong: Pohl, Gluecks, Tschentscher, both Loerners, Dr. Volk, the chief physician, Dr. Lolling, Frank—the latter until his assignment as administration chief of the police only—Mummenthey, Opperbeck, Maurer, Sommer and Schmidt-Klevenow.

“The questions which were discussed at these meetings were mostly the following: labor assignment, food rations, clothing, quarters, treatment of the prisoners, nature of punishment and the carrying out of punishments, erection of new outside camps, evacuation of invalids to other camps, questions of troops and guards, particularly—since there was a considerable shortage of guards—training of female wardens and their recruiting. These meetings took place partly in the WVHA in Berlin and partly in the building of Amtsgruppe D in Oranienburg.” (*Doc. NO-2327, III/110.*)

Papers filed 27 July 1948

On 12 July 1948 Dr. Froeschmann, counsel for Karl Mummenthey said (p. 9 of his memorandum):

“As counsel for the defendant Mummenthey, I must, there-

fore, decline to avail myself of the authorization of the Military Tribunal and comment in some way or other upon the contents of the prosecution closing brief."

On 27 July 1948 he filed 3 papers entitled respectively, "Statement", "Declaration", and "Comparison." None of these papers contains anything which he had not already stated in his petition and memorandum. Despite his many representations, Dr. Froeschmann cannot in justice ever protest that he was not given the fullest opportunity to present arguments in behalf of his client.

As in his petition and memorandum, Dr. Froeschmann in his statement, declaration, and comparison again devotes much time to showing that the Tribunal considered the closing brief of the prosecution. A reading of the judgment will show that the Tribunal did not neglect Dr. Froeschmann's brief, but quoted literally therefrom.

In making the comparison between the prosecution's closing brief and the Tribunal's judgment, defense counsel should have gone one step further and noted the comparison between the prosecution's closing brief and the evidence in the case. In almost every instance where the Tribunal's judgment parallels the prosecution brief, it will be found also that it corresponds with the evidence as given in Court on the witness stand or from a document. If buildings A and B are to be constructed from material furnished by the C factory, it is inevitable that buildings A and B will in some instances have materials which resemble each other.

Instead of demonstrating reasons why the judgment does not justify condemning Mumenthey, if that be a fact, defense counsel numerously repeated that has been accepted as an unprejudicial misunderstanding between what was said in open Court and what appeared in the Court order. From the statement in open Court the prosecution assumed that it could file closing briefs, and did so; and from the same statement some defense counsel assumed they could not. Two of the defense counsel apparently agreed with the prosecution that briefs could be filed, and did so. Prior to 13 October the prosecution filed several closing briefs; some were considered, others were not.

The prosecution brief filed in the Mumenthey case in no way prejudiced Mumenthey. With the exception of the letter of 2 May 1944, which has now been excluded, and the typographical error of percentages heretofore referred to, Dr. Froeschmann does not dispute the correctness of findings by the Tribunal which corresponded to assertions in the prosecution brief. And it is on this basis that the judgment must be founded; on the fact in

the case and not what either counsel may say about the facts. The briefs of respective counsel are not evidence. If neither prosecution nor defense counsel had filed briefs, or if both sides had filed many briefs, or if one side had filed more briefs than the other, the judgment would still have to be based on the evidence in the record—and that alone.

Whatever disadvantage the defense claim they may have suffered because of the order of 13 October 1947, is now being rectified. The Tribunal has reconvened for the purpose of correcting any error and of making any revision which justice dictates. The fact that Dr. Froeschmann has not added anything to what was contained in his petition of 17 November 1947, in the way of substantive argument in behalf of his client, offers the explanation that he has nothing further to say for Karl Mummenthey.

The Tribunal having reconsidered the entire record in the Mummenthey case in accordance with what has been stated in this supplementary opinion, now concludes that nothing has been presented since the judgment of 3 November 1947, to justify any change or modification of it. Under all the evidence in the case the Tribunal concludes that the sentence is entirely proper and just. The judgment and sentence are accordingly reaffirmed.

HANS BOBERMIN

Dr. Gawlick has submitted an interesting, exhaustive, and able, "further brief," in behalf of his client Hans Bobermin. The brief has been read with great care and the original record has again been examined. The Tribunal is convinced that Hans Bobermin is not a brutal personality. Had it not been for the Nazi regime, there is no reason to disbelieve that his life would have been free of criminality and of direct or indirect violence. One of the most frightful aspects of National Socialism was its corroding influence on people originally of good conscience and of good will. However, these who fell under the evil effects of Hitlerism cannot excuse themselves from blame by pleading coercion. There was a time when they were free to do as they chose. There came a time when the intentions of Hitler and his Nazi Party—unprovoked aggression against other nations, enslavement of innocent peoples, extermination of populations, expropriation of property—became plain to any one with a modicum of intelligence. All this had to be clear to Bobermin as it was clear to those who were convicted at the IMT trial.

Bobermin did not lead an army of bayonets into Poland, nor did he sign any decrees of executions against unoffending peo-

ples. He did, however, take over properties that were seized from innocent proprietors. Naturally he did not do this alone; he did it under the authority of his government, but his government was engaged in an obviously illegal enterprise. His government was taking property from Poles and Jews for reasons of plunder and spoliation alone. Even though it may be argued that the Poles were to be regarded as enemies since their country was at war with Germany, it cannot be said with any semblance of reasoning that the Jews were making war on Germany. The taking of their property was nothing less than organized theft. The seizure of their property was part of a program of oppression and extermination, of which Bobermin could not be ignorant. Max Winkler, chief of Main Trustee Department East, and who testified for Bobermin, stated on the witness stand that towards "the end of 1944, I heard what happened to the Jews." He was asked whether these Jews would get their property back and he replies: "Well, not if they were dead."

Defense counsel says that Bobermin could not have known about this since he went to Hungary in 1944, but it is difficult to assume that, charged as he was with the administration of these seized plants, he would not make some inquiry as to what had happened to the owners of the plants.

It is true, as defense counsel points out in his further brief, that Bobermin apparently had nothing to do directly with the administration and supplying of concentration camps as such, but it cannot be assumed that merely because he was 250 kilometers away from Berlin he could be entirely ignorant of the nature of the main office of which his own office was a component part.

Bobermin cannot be absolved from responsibility because the actual act of seizure of the brick works had been achieved prior to the time he took them over, provided he was aware of the illegal nature of the seizure. Dr. Gawlick makes a point between "expropriation and seizure" but the important thing to consider is the intention of the Reich in taking over the properties. Document NO-1008, which enumerated the classes of persons or organizations which may apply for the properties after the war, described one category as:

"those who are considered worthy by the Reich Commissioner for Strengthening the German race [for commitment] in the East [Reichskommissar fuer die Festigung deutschen Volkstums fuer den Osteinsatz]."

This naturally would exclude the former Jewish owners and this naturally would make the seizing of their property pure plundering and spoliation.

Dr. Gawlick says in his further brief:

“Seizure of alien property by the occupying power is admissible according to the Hague Convention whenever such steps are requisite for the maintenance of public order and security in the occupied territories.”

But the record does not show that “such steps were requisite for the maintenance of public order and security in the occupied territory.”

Dr. Gawlick says further:

“The attempt to differentiate between the proprietors was not made by Dr. Bobermin but by the Main Trustee Office East which, being an entirely independent Reich office, had no connection whatever with the WVHA and the office W II.

“Dr. Bobermin can, therefore, not be made responsible for the fact that in connection with the seizure, differential treatment was meted out to the Poles and Jews on the one hand, and ethnic Germans on the other. Legal responsibility in this respect rests with the German Reich, in particular with the Main Trustee Office East.”

The time has passed when the executant of an obviously illegal, unconscionable and inhuman program can take refuge behind the assertion that it was not he who issued the order. Any one ordered to perform a patently illegal and inhuman act is charged by law to protest the order to the extent of his ability, short of endangering his own security. If he fails to do so he will be required to answer for the execution of the illegal act. Whether it be an order calling for the killing of innocent people or the taking of property from innocent proprietors, the rule is the same. By the promulgation and enforcement of this rule, some dignity is being restored to the human race.

Hans Bobermin has been convicted for his part in the crime of camp Golleschau. Dr. Gawlick argues that Bobermin had no authority over Golleschau and that only the camp commander had anything to do with the inmates employed there. Bobermin was the administrator of the plants in which these inmates worked and he obtained, in an official sense, the benefits of their work. He knew the workers were concentration camp inmates and he had to know that this was slave labor.

It is argued in Bobermin's behalf that in any event his criminality cannot be so great when, out of from 300 to 400 plants, concentration camp inmates were employed in only one of them. The crimes of the Nazi regime were committed on so vast a scale that it comes easy to plead forgiveness for a man who illegally exploited only several hundred people instead of several hundred thousand.

It is not claimed by the prosecution, nor was it stated by the Tribunal, that Bobermin personally maltreated anyone, but it has been established that he took a consenting part in the commission of war crimes and crimes against humanity. It has been demonstrated beyond a reasonable doubt that he participated in a program of spoliation and plundering and that he authorized the use of concentration camp labor in the plant at Golleschau.

Defense counsel has pleaded that even if it be admitted that Bobermin was somewhat to blame for what transpired under his jurisdiction, the sentence imposed on him was too severe. There is this to be said in this connection. In Nuernberg the offenses of spoliation and slave labor have not been punished uniformly. Tribunals have differed on the measure of punishment meted out to those convicted of these offenses.

While not attempting to adjust the sentence in this case to what may have been imposed in any other cases, the Tribunal is satisfied, after a review of all the evidence, that the term of imprisonment to which Bobermin was sentenced should be reduced.

Order Confirming or Amending Original Judgment and Sentences

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG,
GERMANY

AT A SESSION OF MILITARY TRIBUNAL II
HELD 11 AUGUST 1948, IN CHAMBERS

The United States of America

vs.

Oswald Pohl, et al., defendants.

Case No. 4

Order Confirming or Amending Original Judgment and Sentences

The Tribunal, having this day filed with the Secretary General its written opinion and supplemental judgment in this cause, in conformity therewith:

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Oswald Pohl be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947

as to the defendant Franz Eirenschmalz be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Karl Sommer be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant August Frank be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Karl Mumenthey be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Hans Loerner be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Erwin Tschentscher be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Hermann Pook be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Hans Baier be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Leo Volk be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment heretofore entered and the sentence heretofore imposed on 3 November 1947 as to the defendant Hans Hohberg be and they are hereby confirmed in all respects.

It is ordered and adjudged that the judgment of the Tribunal entered on 3 November 1947 and the sentence imposed on said date as to the defendant Georg Loerner be and it is hereby amended as follows:

It is ordered and adjudged that the judgment of 3 November 1947 finding said defendant Georg Loerner guilty as charged in counts two, three, and four of the indictment is hereby in all

respects affirmed. The sentence of said defendant on said date is hereby reduced from death by hanging to life imprisonment.

It is ordered and adjudged that the judgment of the Tribunal entered on 3 November 1947 and the sentence imposed on said date as to the defendant Max Kiefer be and it is hereby amended and modified as follows:

It is ordered and adjudged that the judgment of 3 November 1947 finding said defendant Max Kiefer guilty as charged in counts two, three, and four of the indictment is hereby in all respects affirmed. The sentence of said defendant on said date is hereby reduced from life imprisonment to 20 years imprisonment.

The judgment of the Tribunal entered on 3 November 1947 and the sentence imposed on said date as to the defendant Heinz Karl Fanslau be and it is hereby amended and modified as follows:

It is ordered and adjudged that the judgment of 3 November 1947 finding said defendant Heinz Karl Fanslau guilty as charged in counts two, three, and four of the indictment is hereby reduced from 25 years imprisonment to 20 years imprisonment.

It is ordered and adjudged that the judgment of the Tribunal entered on 3 November 1947 and the sentence imposed on said date as to the defendant Hans Bobermin be and it is hereby amended and modified as follows:

It is ordered and adjudged that the judgment of 3 November 1947 finding said defendant Hans Bobermin guilty as charged in counts two, three, and four of the indictment is hereby in all respects affirmed. The sentence of said defendant on said date is hereby reduced from 20 years imprisonment to 15 years imprisonment.

It is further ordered and adjudged that the time within which said defendants may petition the Military Governor of the United States Zone of Occupation for review of the judgment and sentences herein set forth under the provisions of Control Council Law No. 10 shall begin to run from the date on which a copy of the supplemental judgment shall be filed in the German language with the Office of Defense Information and not before.

[Signed] ROBERT M. TOMS
Presiding Judge

[Signed] FITZROY D. PHILLIPS
Judge

[Signed] MICHAEL A. MUSMANN
Judge

XI. CONFIRMATION AND REDUCTION OF SENTENCES BY THE MILITARY GOVERNOR OF THE U.S. ZONE OF OCCUPATION

Introduction

On 30 April 1949, General Lucius D. Clay, Military Governor of the U.S. Zone of Occupation, confirmed by separate orders the sentences imposed on the defendants Baier, Bobermin, Fanslau, Frank, Hohberg, Kiefer, Georg Loerner, Hans Loerner, Mumenthey, Pohl, Pook, Tschentscher, and Volk. By separate orders on 11 May 1949, General Clay confirmed the sentence of the defendant Eirenschmalz and commuted the sentence of the defendant Sommer from death to imprisonment for life.

The orders which confirmed the sentence of the defendant Pohl and commuted the sentence of the defendant Sommer are reproduced immediately below.

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

Berlin, Germany
30 April 1949

Military Tribunal II Case No. 4

In the Case of
The United States of America

vs.

Oswald Pohl, et al.

Order with Respect to Sentence of Oswald Pohl

In the case of the United States of America against Oswald Pohl, et al., tried by United States Military Tribunal II, Case No. 4, Nuremberg, Germany, the defendant Oswald Pohl, on 3 November 1947, was sentenced by the Tribunal to death by hanging. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered:

a. that the sentence imposed by Military Tribunal II on Oswald Pohl be, and hereby is, in all respects confirmed:

b. that pending action on petitions filed by the defendant with authorities other than the Office of Military Government for Germany (U.S.), the execution of the death sentence be stayed until further order by me;*

c. that the defendant be confined until further order in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.

[Signed] LUCIUS D. CLAY

HEADQUARTERS, EUROPEAN COMMAND
Office of the Commander-in-Chief
APO 742

Berlin, Germany

May 11 1949

Military Tribunal II Case No. 4

In the Case of
The United States of America

vs.

Oswald Pohl, et al.

Order with Respect to Sentence of Karl Sommer

In the case of the United States of America against Oswald Pohl, et al., tried by United States Military Tribunal II, Case No. 4, Nuremberg, Germany, the defendant Karl Sommer, on 3 November 1947, was sentenced by the Tribunal to death by hanging. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered:

a. that the sentence of death imposed by Military Tribunal II on Karl Sommer be, and hereby is, commuted to imprisonment for life;

b. that the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.

[Signed] LUCIUS D. CLAY

* The order confirming the death sentence in the case of the defendant Eirenschmalz was also stayed until further order in identical language.

XII. ORDER OF THE SUPREME COURT OF THE UNITED STATES DENYING WRIT OF HABEAS CORPUS

SUPREME COURT OF THE UNITED STATES

October Term, 1948

No. 507 Misc. In the Matter of Oswald Pohl, August Frank, Georg Loerner, Heinz Karl Fanslau, Hans Loerner, Erwin Tschentscher, Max Kiefer, Franz Eirenschmalz, Karl Sommer, Hermann Pook, Hans Baier, Hans Hohberg, Leo Volk, Karl Mummenthey, and Hans Bobermin.

ORDER

“Treating the application in each of these cases as a motion for leave to file a petition for an original writ of habeas corpus, leave to file is denied. The Chief Justice, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Burton are of the opinion that there is want of jurisdiction. U. S. Constitution, Article III, Sec. 2, Clause 2; see *ex parte* Betz and companion cases, all 329 U.S. 672 (1946); *Milch v. United States*, 332 U.S. 789 (1947); *Brandt v. United States*, 333 U.S. 836 (1948); *In re Eichel*, 333 U.S. 865 (1948); *Everett v. Truman*, 334 U.S. 824 (1948). Mr. Justice Black, Mr. Justice Douglas, Mr. Justice Murphy, and Mr. Justice Rutledge are of the opinion that argument should be heard on the motions for leave to file the petitions in order to settle what remedy, if any, the petitioners have. Mr. Justice Jackson took no part in the consideration or decision of these applications.”

May 2, 1949.

APPENDIX

Table of Comparative Ranks

U. S. Army	German Army	U. S. Navy	German Navy	SS	SA
2d Lieutenant.....	Leutnant.....	Ensign.....	Leutnant zur See.....	Untersturmfuehrer.....	Sturmuehrer
1st Lieutenant.....	Oberleutnant.....	Lieutenant (junior grade)	Oberleutnant zur See	Obersturmfuehrer.....	Obersturmfuehrer
Captain.....	Hauptmann.....	Lieutenant (senior grade)	Kapitaenleutnant.....	Hauptsturmfuehrer.....	Hauptsturmfuehrer
Major.....	Major.....	Lieutenant Commander	Korvettenkapitaen.....	Sturmabannuehrer.....	Sturmabannuehrer
Lieutenant Colonel.....	Oberstleutnant.....	Commander.....	Fregattenkapitaen.....	Obersturmbannuehrer.....	Obersturmbannuehrer
Colonel.....	Oberst.....	Captain.....	Kapitaen zur See.....	Standartenuehrer.....	Standartenuehrer
Brigadier General.....	Generalmajor.....	Commodore.....	Konteradmiral.....	Oberuehrer*.....	Oberuehrer*
Major General.....	Generalleutnant.....	Rear Admiral.....	Vizeadmiral.....	Brigadefuehrer.....	Brigadefuehrer
Lieutenant General.....	General der Infanterie, der Artillerie, etc	Vice Admiral.....	Admiral.....	Gruppenuehrer.....	Gruppenuehrer
General.....	Generaloberst.....	Admiral.....	Generadmiral.....	Obergruppenuehrer.....	Obergruppenuehrer
General of the Army.....	Generalfeldmarschall.....	Admiral of the Fleet.....	Grossadmiral.....	Oberstgruppenuehrer.....	Stabschef
				Reichsfuehrer.....	

* Equivalent to a senior Colonel.

List of Witnesses in Case 4

[Note.—All witnesses in this case appeared before the Tribunal. Prosecution witnesses are designated by the letter "P" defense witnesses by the letter "D". The names not preceded by any designation represent defendants testifying in their own behalf. Designation "1" shows witness called by defense although affidavit was submitted by prosecution. Extracts from testimony in this case are listed in the index of documents and testimonies. Tribunal witnesses are designated by the letter "T".]

	Name	Dates of testimony	Pages (mimeographed transcript)
P	ABEND, Victor	11 Apr 47	252-273
P	ACKERMAN, Josef	23, 24 Apr 47	929-992
	BAIER, Johannes Heinrich	22, 23, 24, 25 Jul	4770-4995
P	BERGOLD, Dr. Friedrich	18 Aug 47	6312
D	BICKEL, Helmut	31 Jul; 4 Aug 47	5381-5512
P	BIELSKI, Jerzy	11, 14 Apr 47	302-319; 341-399
	BOBERMIN, Hans (Johannes) Karl Bernhard	7, 8, 11, 12 Aug 47	5816-6029
1	BRANDT, Rudolf	5 Jun 47	2207-2229
D	CAESAR, Dr. Joachim	28 Jun 47	3639-3652
P	EBBERS, Heinrich	21 Aug 47	6640-6646
	EIRENSCHMALZ, Franz	26, 27 Jun 47	3421-3564
P	ENGLER, Herbert	21 Apr 47	659-720
D	ERTEL, Arnold Julius Hermann	24 Jun 47	3279-3295
	FANSLAU, Heinz Karl	11, 12 Jun; 27, 28 Aug; 3 Sep 47	2531-2675; 6973-7048; 7357-7366
	FRANK, August	5, 6, 9, 10 Jun 47	2231-2487; 7410-7417
D	FREITAG, Franz	25 Aug 47	6815-6826
D	FRTZSCHE, Hans	3 Sep 47	7273-7308
P	GOLDSTEIN, Anton	29 Aug 47	7106-7126
1	GROSCHE, Wolfgang	27, 28 Jun 47	3565-3597
	HOHBERG, Hans Karl	11, 14, 15, 16, 17, 18 Jul; 2 Sep 47	4215-4584; 7258-7269
D	HOYER, Walter	24 Jun 47	3262-3278
P	JOLLEK, Solomon	3 Sep 47	7310-7329
P	KAHR, Karl	10 Apr 47	173-207
1	KARL, Herbert	18 Aug 47	6316-6347; 6352-6371
D	KAROLI, Dr. Hermann	21, 22 Jul; 3 Sep 47	4658-4769; 7270-7273
	KIEFER, Max	24, 25, 26 Jun 47	3297-3417
	KLEIN, Horst	13, 14, 15 Aug; 4 Sep 47	6090-6115; 6125-6237; 6264-6307; 7436-7442
P	KOGON, Eugen	21, 22, 23 Apr 47	720-923
D	KRAUSE, Wilhelm	3 Sep 47	7332-7341
P	KRUSE, Albert Henry	15 Apr 47	442-510

List of Witnesses in Case 4 (Cont'd)

	Name	Dates of testimony	Pages (mimeographed transcript)
P	KRYSIAK, Joseph	14 Apr 47	399-440
P	LAUBER, Bernhard	11 Apr 47	282-297
	LOERNER, Georg	17, 18, 19, 20 Jun; 4 Sep 47	2916-3151; 7423-7424
	LOERNER, Hans	12, 13 Jun 47	2675-2756
D	MORGEN, Dr. Konrad	21, 22 Aug 47	6669-6753
D	MUELLER, Erich	29 Aug 47	7159-7171
	MUMMENTHEY, Karl Kurt Andreas Emil	4, 5, 6, 7, Aug 47	5512-5769
P	OTTO, Guenther	18, 19, 20 Aug 47	6371-6501; 6527-6562
	POHL, Oswald	16, 19, 20, 21, 22, 23, 27, 28, 29 May; 2, 3, Jun; 25 Aug 47	1253-2040; 6759-6786
	POOK, Hermann	2, 3, 8, 9 Jul 47	3879-4067
D	RAMMLER, Georg Martin Wilhelm	28 Jun 47	3600-3639
D	REUTER, Dr. Paul	9, 10 Jul 47	4067-4091
D	ROUPPERT, Helga von	12 Aug 47	6034-6068
P	SACHS, Camille	21 Aug 47	6610-6639
P	SANNER, Wolfgang	20 Aug 47	6503-6527
P	SAUER, Arnold	20, 21 Aug 47	6563-6607
D	SCHAEFER, Willi Theodor Klaus	29 Aug 47	7134-7154
D	SCHATKOWSKY, Albert	3 Sep 47	7342-7344
	SCHEIDE, Rudolf Hermann Karl	10, 11 Jul 47	4091-4203
D	SCHMIDT-KLEVENOW, Kurt	3 Jun 47	2041-2090
T	SCHWARTZ, Heinrich	21 Aug 47	6647-6669
D	SCHWARZ, Heinz Gerhard Franz	30, 31 Jul	5284-5381
	SOMMER, Karl	30 Jun; 1, 2 Jul 47	3653-3878
D	SPECHT, Ernst	3 Sep 47	7344-7345
D	STAMINGER, Georg	2 Sep 47	7202-7225
D	STEICHELE, Dr. Karl	25 Aug 47	6787-6814
D	STEIN, Johann	10 Jun 47	2489-2530
D	STEINER, Felix	2 Sep 47	7226-7257
D	TENBERGEN, Dr. Heinrich Albert	18 Jul 47	4632-4655
	TSCHECHTSCHER, Erwin Oskar Rudolf	20, 23, 24 Jun; 28, 29 Aug 47	3152-3261; 7049-7103; 7127-7133
	VOGT, Josef	13, 16, 17 Jun 47	2757-2916
	VOLK, Leo	25, 28, 29, 30 Jul; 4 Sep 47	4995-5282; 7442-7450
P	WIEDENFELDT, Dr. Karl Siegfried	27 Aug 47	6911-6973
D	WINKLER, Max	7 Aug 47	5773-5815
D	WOLF, Dr. Max	18 Jul 47	4591-4629
D	WOLFF, Karl	3, 4, 5 Jun 47	2090-2206
T	WOLFF, Larry Lothar	13 Aug 47	6115-6125

INDEX OF DOCUMENTS AND TESTIMONIES

Document No.	Exhibit No.	Description	Page
NI-638	Pros. Ex. 372	Circular letter from Speer Ministry, 9 October 1944, concerning the handling of requests for concentration camp inmates, with enclosed application form.	588
NO-019 (a)	Pros. Ex. 24	Extract from letter of Himmler, December 1939, to SS Gruppenfuehrer Hildebrandt, stating responsibilities of Gluecks and defendant Pohl.	294
NO-020 (a)	Pros. Ex. 81	Letter from Pohl to Himmler, 5 April 1944, showing number of camps in Germany, the East and the Netherlands; and Himmler's answer, 22 April 1944.	383
NO-021	Pros. Ex. 357	Letter by Pohl to Himmler, 5 April 1944, concerning security measures in Auschwitz; Himmler's answer, 9 May 1944.	384
NO-034	Pros. Ex. 29	Report by Gluecks to Himmler (copies to Pohl and Heydrich), 21 February 1940, about suitability of Auschwitz and other sites as concentration camps.	356
NO-057	Pros. Ex. 487	Report by Globocnik on Action Reinhardt (enclosure to his letter to Himmler, 5 January 1944, Document NO-064).	716
NO-059	Pros. Ex. 488	Report by Globocnik, undated, on administrative development of "Action Reinhardt".	725
NO-060	Pros. Ex. 474	Report by Globocnik, undated, concerning valuables from "Action Reinhardt" delivered to WVHA for transfer to the Reich Bank and the Reich Ministry of Economy.	704
NO-061	Pros. Ex. 475	Report by SS Sturmbannfuehrer Wippert, 27 February 1943, concerning value of money, precious metals, other valuables, and textiles of Jews, delivered up to 3 February 1943.	706
NO-062	Pros. Ex. 489	Detailed list of money, precious metals, jewels, other valuables, and textiles, signed by Globocnik and Wippert (undated).	728

Document No.	Exhibit No.	Description	Page
NO-063	Pros. Ex. 450a.	Two memoranda by Globocnik designated as "enclosures": (a) Orders on hand of the Labor Camps in the Lublin District, as of 3 November 1943; (b) Provisional report of the cash operation "Reinhardt" as of 15 December 1943.	538
NO-064	Pros. Ex. 486.	Letter from Globocnik to Himmler, 5 January 1944, submitting report on Action Reinhardt.	715
NO-111	Pros. Ex. 38.	Table of organization of WVHA (undated).	313
NO-395	Pros. Ex. 374.	Letter from commander of concentration camp Flossenbuerg, 1 January 1945, transmitting production statements of SS and private enterprises to office D II of WVHA.	590
NO-495	Pros. Ex. 37.	Circular of defendant Pohl, 19 January 1942, announcing new organizational set-up under WVHA, and stating positions of defendants Frank, Georg Loerner, and Pohl.	296
NO-500	Pros. Ex. 55.	Teleprint from Himmler to Gluecks, 25 January 1942, requesting preparations to receive up to 150,000 Jews in concentration camps.	365
NO-517	Pros. Ex. 86.	Memorandum, 23 March 1944, signed by Baier, concerning "Camp Regulations for Prisoners".	587
NO-549	Pros. Ex. 447a.	Monthly business report from chief of office W IV to Pohl, 16 October 1942.	503
NO-554	Pros. Ex. 448a.	Letter from DWB to SS Savings Bank Association, 7 June 1943, announcing Frank's authorization to repay, through the bank, a loan from the Red Cross; letter from DWB to Frank, same date, requesting loan from Reinhardt fund to repay this loan, and a direct loan of the Red Cross.	723
NO-555	Pros. Ex. 451a.	Extract from business report of German Equipment Works, Ltd. (DAW) for 1943, co-signed by Opperbeck and Niemann, March 1944.	536
NO-599	Pros. Ex. 63.	File note by Pohl, 7 September 1943, on conference with Georg	377

Document No.	Exhibit No.	Description	Page
		Loerner and others, concerning taking over of labor camps in Lublin district.	
NO-620	Pros. Ex. 33	Table of organization of the SS Main Office Budget and Buildings and Main Office Administration and Economy before the establishment of the WVHA.	faces 292
NO-719	Pros. Ex. 42	Himmler's reply, 29 May 1942, to defendant Pohl's report of 30 April 1942.	301
NO-724	Pros. Ex. 472	Letter by Frank to SS Garrison Administration and concentration camp Auschwitz, 26 September 1942, concerning utilization of property of Jews.	695
NO-725	Pros. Ex. 481	Circular of Pohl, 9 December 1943, concerning the handling and auditing of the "Action."	722
NO-726	Pros. Ex. 496	Circular from defendant Vogt, 15 March 1944, requesting reports on execution of Action Reinhardt.	720
NO-1005	Pros. Ex. 390	Letter from Bobermin to Hohberg, 29 January 1943, requesting additional auditors, and negative answer from Hohberg, 9 February 1943.	698
NO-1016	Pros. Ex. 46	Note to defendant Fanslau, 13 July 1944 for defendant Volk, and enclosure: Description of "Organization and Tasks of Office Group W" of WVHA.	309
NO-1021	Pros. Ex. 448	Extract from letter of Bobermin to Hohberg, 23 November 1941, suggesting that WVHA take over building material plants only in Baltic Provinces, Ukraine, and Crimea, and not in the entire Russian territories.	492
NO-1034	Pros. Ex. 444a	Letter by Hohberg to Pohl, 18 September 1940, concerning incorporation of SS Economic Enterprises in Dachau into German Equipment Works; Letter of Pohl, 31 January 1940, ordering this incorporation; Letter of Hohberg, 11 September 1940, concerning interest of SS in furniture factories in the Government General.	484
NO-1035	Pros. Ex. 405	Letter from Hohberg to Pohl, 18 July 1942, suggesting transfer of compensation for prisoners'	582

Document No.	Exhibit No.	Description	Page
		work to the "Lebensborn" organization and amending letter of 21 July.	
NO-1036	.....Pros. Ex. 66...	Letter by defendant Baier, 19 January 1944, informing office W IV of WVHA of conversion of labor camps in Government General into concentration camps, and establishment of a central administration of the DAW at Krakow; Memorandum, 13 January 1944, on same subject.	545
NO-1039	.....Pros. Ex. 384...	Letter of Hohberg to Pohl, 10 April 1943, submitting for Himmler a survey of capital and turnover, of economic enterprises of WVHA, with a short description of the firms.	528
NO-1040	.....Pros. Ex. 577...	Letter by Hohberg to Office A II of WVHA, 3 June 1943, concerning Pohl's and Frank's orders with regard to a credit of 30 million RM from the Reinhardt funds to German Economic Enterprises.	712
NO-1257	.....Pros. Ex. 479...	Report by Pohl to Himmler's office, 6 February 1943, with enclosed statement showing delivery of 825 cars of textiles from Jewish resettlement; letter from Himmler to Pohl, 15 January 1943, concerning utilization of Jewish property.	699
NO-1265	.....Pros. Ex. 482...	Letter of Dr. Max Horn to the defendant Hohberg, 26 February 1943, concerning the contract establishing "OSTI."	509
NO-1270	.....Pros. Ex. 61...	Queries concerning the proposed establishment of "OSTI" Ltd. in Government General, and file memorandum, 13 February 1943, about conference of Pohl, Georg Loerner, Volk, and Hohberg concerning these queries.	505
NO-1271	.....Pros. Ex. 491...	Extracts from auditing report, 21 June 1944, concerning activities and financial results of "OSTI" from its foundation in March 1943 until 29 February 1944.	512
NO-1273	.....Pros. Ex. 430...	Statement on legal structure and plants of DEST (German Earth and Stone Works Ltd.), 30 May 1941, showing positions of Mumenthey and Pohl.	487

Document No.	Exhibit No.	Description	Page
NO-1276	.....Pros. Ex. 428...	Letter co-signed by Mummenthey and Salpeter, to Pohl, 30 December 1940, rejecting the offer that DEST (German Earth and Stone Works Ltd.) acquire the Gmunden Lime Co. in Austria.	486
NO-1278	.....Pros. Ex. 440...	Letter of defendant Mummenthey to defendant Baier, 8 June 1944, concerning proposal to set up a diamond cutting factory in Bergen-Belsen because the Dutch Jews have been deported from concentration camp Hertogenbosch, Netherlands.	639
NO-1284	.....Pros. Ex. 114...	Circular of office D I/1 of WVHA, 21 April 1942, concerning work assignments for clergymen in concentration camps.	365
NO-1285	.....Pros. Ex. 164...	Letter from Pohl to Himmler, 15 March 1943, concerning state of health and mortality of prisoners in "protective custody"; undated draft of letter from Pohl to Minister of Justice on same subject.	374
NO-1289	.....Pros. Ex. 406...	Circular letter by Pohl, 30 December 1942, concerning new scales for compensation for prisoners' work; letter from Hohberg to Maurer, 22 December 1942, concerning computation of "profits from the employment of Jewish prisoners" in Lublin.	584
NO-1290	.....Pros. Ex. 60...	Circular letter of Pohl to concentration camp commanders, 22 January 1943, concerning working time of prisoners.	370
NO-1291	.....Pros. Ex. 95...	Circular letter, 29 June 1943, announcing change of name of camp Bergen-Belsen for tactical reasons.	376
NO-1451	.....Pros. Ex. 21...	Himmler's order, 20 April 1939, establishing the "Main Office Administration and Economy" also known as "Administrative and Economic Main Office".	293
NO-1523	.....Pros. Ex. 342...	Circular letter by Gluecks to concentration camp commanders, 20 January 1943, urging lowering of death rate and enclosure, copy of letter of Gluecks to Pohl, 31 December 1942, about new categories of prisoners to be sent to the camps.	372

Document No.	Exhibit No.	Description	Page
NO-1558	Pros. Ex. 109	Circular of Gluecks, 9 May 1944, ordering that reports on transfers and deaths of prisoners delivered by collective shipment from the East be discontinued.	387
NO-1611	Pros. Ex. 498	Letter by Himmler to Pohl, Krueger, Globocnik, RSHA and Karl Wolff, 9 October 1942, informing them that Krueger and Pohl have to collect workers in concentration camps in Warsaw and Lublin and outlining future program.	616
NO-1882	Pros. Ex. 499	Letter of Himmler to Gauleiter Krueger (copy to Pohl), January 1943, ordering measures against Warsaw Jews.	618
NO-1905	Pros. Ex. 353	Letter from Pohl to SS Oberfuehrer Kranefuss (personal staff of Himmler), 15 January 1944, concerning allocation of concentration camp prisoners to I. G. Farben Industrie Auschwitz and other chemical firms.	586
NO-1915	Pros. Ex. 396	Letter of Volk to Eirenschmalz, Mumenthey, and Hohberg, 15 August 1942, informing them that Pohl asked Hohberg to handle the establishment of the slag utilization plant of the Hermann Goering Works at Linz.	502
NO-1935	Pros. Ex. 129	Letter from Maurer to commander of the Buchenwald concentration camp, 7 December 1942, regarding state of health of transferred prisoners.	366
NO-1990	Pros. Ex. 73	Report by Burger to Georg Loerner, 15 August 1944, on prisoners' strength, expected new arrivals, and inventory of prisoners' clothing.	388
NO-1994	Pros. Ex. 88	Report by defendant Pohl to Himmler, 28 July 1942, asking approval for transfer, promotion, and detachment of concentration camp commanders; answer by Brandt, on behalf of Himmler, 23 August 1942.	303
NO-2003	Pros. Ex. 480	Letter by Frank to Himmler, 13 May 1943, concerning distribution of watches and other property among the services.	709
NO-2031	Pros. Ex. 341	Circular order of Himmler, 6 January 1943, concerning order to	367

Document No.	Exhibit No.	Description	Page
		Pohl and Chief of Security Police and SD, to establish a special camp for children and adolescents in Lublin or Auschwitz.	
NO-2147	Pros. Ex. 30	Report co-signed by Volk, Georg Loerner and others, 9 January 1942, concerning acquisition, expansion, and industrial utilization of concentration camp Stuthof near Danzig; and two preceding memoranda by Maurer, 17 and 11 December 1941.	493
NO-2150	Pros. Ex. 31	Letter from Pohl to SS Gruppenfuehrer Hildebrandt, 17 January 1942, informing him of the Stuthof transaction and offering part of the proceeds of the transaction for SS Settlement near Danzig.	500
NO-2155	Pros. Ex. 441	Note from defendant Mummenthey to staff W of WVHA, 19 August 1943, listing plants and workshops of his department which employ prisoners.	501
NO-2367	Pros. Ex. 706	Report of the camp physician of Buchenwald, 15 July 1941, on state of health of transferred prisoners; and letter, 16 July 1941, forwarding this report to Main Office of Budget and Buildings.	359
NO-2403	Pros. Ex. 505	Letter of Himmler to Pohl, 21 June 1943, ordering, among other measures, "evacuation" of "not required" Jews from the ghettos.	626
NO-2494	Pros. Ex. 501	Letter of Himmler to the Higher SS and Police Leader East, Krueger (Krakow) 16 February 1943, ordering the destruction of the Warsaw ghetto.	621
NO-2496	Pros. Ex. 504	Letter of Himmler to Pohl, 11 June 1943, ordering the complete flattening of the destroyed Warsaw ghetto by Jews.	623
NO-2503	Pros. Ex. 507	Letter by Pohl to Himmler, 29 Oct. 1943, with enclosed report on demolition of Warsaw ghetto (reference to Himmler's order of 11 June 1943).	628
NO-2514	Pros. Ex. 500	Order of Himmler to Pohl, 16 February 1943, concerning assignment of all Warsaw Jews to	620

Document No.	Exhibit No.	Description	Page
NO-2516	..... Pros. Ex. 506...	a concentration camp to be established in the Warsaw ghetto. Letter by Pohl to Himmler, 23 July 1943, reporting erection of concentration camp in Warsaw to carry out work in the former ghetto.	627
NO-2754	..... Pros. Ex. 539...	Letter from Rudolf Brandt to Pohl, 3 December 1943, concerning distribution of watches.	713
NO-2756	..... Pros. Ex. 541...	Letter by Pohl to Himmler, 29 July 1944, suggesting distribution of 16 gold precision wrist watches to commanders of technical units.	721
NO-3034	..... Pros. Ex. 485...	Letter from Himmler to Pohl, 22 September 1943, ordering Pohl to take over the settlement of the account, "Reinhardt 1" of 1 January 1944.	714
NO-3654	..... Pros. Ex. 557...	Circular order of Pohl, 11 July 1940, concerning payment to the Reich for industrial work of concentration camp prisoners.	579
NO-3696	..... Pros. Ex. 567...	Circular of Main Division I/5 of Main Office Budget and Buildings, 11 April 1941, inviting labor allocation officers of 6 concentration camps to second labor allocation conference, Dachau; and enclosed agenda.	581
NO-3698	..... Pros. Ex. 556...	Letter from defendant Georg Loerner, 23 September 1940, concerning establishment of branch offices of the Main Office Budget and Buildings at the concentration camps to handle labor allocation of prisoners.	294
NO-3793	..... Pros. Ex. 582...	Extracts from report of German Shale Oil Company, 4 December 1944, to WVHA, on conditions in camp Bisingen.	392
NO-3798	..... Pros. Ex. 698...	Letter by Pohl to Reich Commissioner for Price Control, 19 September 1941, stating scope of activities and management principles of the Main Office Administration and Economy firms stressing their cultural and social aims, and requesting preferential tax treatment.	489
NO-3860	..... Pros. Ex. 667...	Letter from office C V to SS Central Construction Office, Dachau, 23 July 1942, concerning con-	615

Document No.	Exhibit No.	Description	Page
		struction of "X-Hut" in Dachau concentration camp.	
NO-3863	.....Pros. Ex. 668...	Detailed statement, 17 March 1942, concerning draft for the construction of building "X" (additional crematorium) for the concentration camp Dachau.	613
NO-4344	.....Pros. Ex. 651...	Letter from Construction Management of the Waffen SS and Police, Gross-Rosen to Main Office, Budget and Buildings, 28 August 1941, forwarding letter of firm of Tesch and Stabenow, Hamburg, concerning "delousing plant". (NO-4345, Pros. Ex. 652.)	362
NO-4345	.....Pros. Ex. 652...	Letter from Tesch and Stabenow, Hamburg, to SS Construction Management Gross-Rosen, 25 August 1941, requesting priority certificates for construction of two extermination chambers (enclosure to NO-4344, Pros. Ex. 651).	363
NO-4353	.....Pros. Ex. 644...	Letter from SS Construction Management Office Buchenwald to Gruppenfuehrer Eicke, Berlin, 18 June 1938, requesting approval for erection of a new crematorium; Indorsement by Eicke to Chief of SS Administration, Munich, 21 June 1938, recommending approval of request.	353
NO-4400	.....Pros. Ex. 649...	Letter from SS Construction Management Office, Buchenwald, to Main Office Budget and Buildings (Berlin), 21 January 1940, concerning construction of emergency crematorium at Buchenwald concentration camp.	355
NO-4401a	.....Pros. Ex. 650...	Description by SS Construction Management Office, Buchenwald, 10 January 1940, of emergency crematorium with oil burning furnace to be erected at concentration camp Buchenwald.	354
NO-4464	.....Pros. Ex. 655...	Letter of Pohl to SS Central Construction Management Auschwitz, 2 March 1942, approving building program for 1942, including crematorium in PW camp.	612
NO-4465	.....Pros. Ex. 660...	Letter from SS Central Building Office Auschwitz to plant Auschwitz of the DAW, 31 March 1943,	622

Document No.	Exhibit No.	Description	Page
		concerning three gas-tight chambers and one gas door with peephole for corpse cellar.	
NO-4466	.....Pros. Ex. 659...	Letter from Central Construction Management Auschwitz to German Equipment Works (DAW), 13 June 1943, urging completion of crematoriums I, II, III, IV and other carpentry work.	624
NO-4473	.....Pros. Ex. 661...	Letter from SS Construction Management Auschwitz to Kammler, WVHA, 29 January 1943, reporting completion of crematory II.	619
NO-4510	.....Pros. Ex. 718...	Order signed by defendant Fanslau, 27 August 1942, transferring concentration Camp Commander Suhren from Sachsenhausen to Ravensbrueck.	308
858-PS	.....Pros. Ex. 153...	Order of Frank to concentration camps, 7 January 1943, concerning property of deceased prisoners.	368
1061-PS	.....Pros. Ex. 503...	Selections from "Pictorial Report" on destruction of Warsaw ghetto by SS Brigadier General Stroop submitted to Himmler, May 1943.	631
1063(F)-PS	...Pros. Ex. 39...	Circular of Mueller (RSHA), 30 May 1942, announcing transfer of office of Inspector of Concentration Camps to WVHA, as division D.	302
1469-PS	.....Pros. Ex. 165...	Report by Pohl to Himmler, 30 September 1943, on deaths in the concentration camps, and Himmler's answer, 8 October 1943.	379
3663-PS	.....Pros. Ex. 460...	Inquiry from Reich Ministry for the Occupied Eastern Territories, Berlin, to the Reich Commissioner Eastland Riga, 31 October 1941, concerning execution of Jews; handwritten answer, 15 November 1941.	610
R-129	.....Pros. Ex. 40...	Report by Pohl to Himmler, 30 April 1942, re taking over Inspectorate of Concentration Camps; circular of Pohl, same date, on administration of the camps.	298
Frank 17	.....Frank Ex. 16...	Affidavit of SS Standartenfuehrer Kurt Becher, 12 June 1947, on his and Frank's attitude toward Jews.	682

Document No.	Exhibit No.	Description	Page
Hohberg 4	Hohberg Ex. 13	Extract from "Yearbook of Economic Trustee for 1941," concerning professional ethics of economic examiners.	479
Hohberg 32	Hohberg Ex. 34	Affidavit of Heinz Savelsberg, concerning Hohberg's visit to I. G. Farben Plant Auschwitz.	480
Hohberg 71	Hohberg Ex. 68	Affidavit of Emil Puhl concerning Pohl's and Sommer's visit to the Reich Bank vaults in 1942.	741
Hohberg 73	Hohberg Ex. 70	Affidavit of Martin Loeffler, 2 August 1947, concerning acquisition of factory of D. Drucker A. G. by WVHA.	549
Hohberg 74	Hohberg Ex. 71	Affidavit of Konrad Heidenreich, 4 August 1947, concerning acquisition of factory of D. Drucker A. G. by WVHA.	550
Klein 9	Klein Ex. 9	Certificate of Archbishopial Office of the Vicar-General in Paderborn, 21 March 1947, concerning Klein's negotiations for acquisition of church property for concentration camp Wewelsburg.	551
Klein 10	Klein Ex. 10	Letter from SS Building Office Wewelsburg, 20 June 1939, containing Himmler's directives on acquisition of church property.	552
Georg Loerner 26	Georg Loerner Ex. 23	Order, unsigned, 14 December 1938, concerning duties of Gestapo and collaboration of Party agencies.	420
Georg Loerner 27	Georg Loerner Ex. 24	Extract from testimony of Dieter Wisliceny before a commissioner appointed by the IMT, 5 June 1946, on secrecy concerning, "Final Solution of the Jewish Problem."	810
Georg Loerner 28	Georg Loerner Ex. 25	Letter of Lammers to Guertner, Reich Minister of Justice, 8 August 1939, and letter of Bouhler, Chief of the Party Chancellery, to Lammers, 26 July 1939, concerning transfer of security detainees to concentration camps.	424
Georg Loerner 38	Georg Loerner Ex. 34	Extract from SS Manual 2 (March 1935), on "Obedience".	801
Mummenthey 16	Mummenthey Ex. 22	Extract from Decree of the Reich Ministry of the Interior, 30 April	421

Document No.	Exhibit No.	Description	Page
		1938, establishing 8-hour regular working day.	
Mummenthey 17	Mummenthey Ex. 23	Directive of Goering and Todt, 15 February 1939, concerning working hours on building sites.	422
Mummenthey 19	Mummenthey Ex. 25	Decree of Goering, 1 September 1939, abrogating Decree of 30 April 1938, concerning 8-hour regular working day.	423
Mummenthey 20	Mummenthey Ex. 26	Extracts from Circular Decree of Goering, 10 April 1942, concerning 56-hour minimum working week of civil servants.	428
Mummenthey 21	Mummenthey Ex. 27	Decree, 31 August 1944, increasing regular working week to 60 hours where necessary.	429
Mummenthey 40	Mummenthey Ex. 41	Affidavit of Emil Puhl, vice president of the German Reich Bank, concerning credits granted to "DEST" and delivery of confiscated valuables to the Reich Bank.	737
Pohl 4.....	Pohl Ex. 3.....	Extract of law concerning the Secret State Police (Gestapo), 10 February 1936.	417
Pohl 5.....	Pohl Ex. 4.....	Extract from Goering's Decree, 10 February 1936, implementing the law concerning the Secret State Police (Gestapo).	419
Pohl 7.....	Pohl Ex. 6.....	Extracts from Goering's decree, 17 September 1940, concerning treatment of Polish property.	733
Pohl 8.....	Pohl Ex. 7.....	Extracts from Goering's decree, 12 June 1940, concerning Main Trustee Office East and Administration of Polish public and private property.	732
Pohl 9.....	Pohl Ex. 8.....	Circular letter of Foreign Office to various Ministries, 31 July 1942, concerning treatment of Jewish property; and approving answer from Reich Ministry of Justice, 18 August 1942.	734
Pohl 10.....	Pohl Ex. 9.....	Thirteenth Decree, 1 July 1943, implementing the Reich Citizenship Law (Nuernberg Race Law) of 1935.	736

Document No.	Exhibit No.	Description	Page
Pohl 13.....	Pohl Ex. 12....	Extracts from article by Freisler, Under State Secretary in Reich Ministry of Justice, on "Work Assignments and Penal Administration", published in "German Justice", 13 September 1940.	426
Pohl 16.....	Pohl Ex. 15....	Affidavit of Gerhard Maurer, of WVHA, 3 July 1947, concerning assignment of concentration camp prisoners to outside enterprises.	605
Pook 11.....	Pook Ex. 2.....	Extracts from "The Gold of the Dead" by Dr. Werkenthin ("Dental Magazine", 1925).	475
Scheide 17	Scheide Ex. 14..	Order of Waffen SS, published 15 June 1943, amending regulations concerning transportation service of the SS and Police.	739
Scheide 20	Scheide Ex. 13a.	Extract from testimony before the IMT, of Ohlendorf, 3 January 1946, on origin of gas vans used for extermination.	687
Scheide 21	Scheide Ex. 15..	Extracts from testimony before the IMT, of SS Hauptsturmfuehrer Wisliceny, 3 January 1946, on, "Final Solution of the Jewish Problem," and transportation of Greek Jews to Auschwitz.	689
Sommer A/1 ..	Sommer Ex. 2..	Extracts from affidavit of Gerhard Maurer, chief of office D II of WVHA, 22 May 1947, on organization of that office and Sommer's position in it.	601
Sommer A/13 ..	Sommer Ex. 13.	Affidavit of Walther Schieber, chief of office for delivery of armament materiel, 11 January 1947, concerning negotiations about use of prisoners in armament industry.	600
Sommer E/33 ..	Sommer Ex. 31.	Affidavit of Paul Barnickel, Reich Public Prosecutor, quoting Hitler's "Secrecy Order" of 25 September 1941.	809
Sommer 34	Sommer Ex. 32.	Decree of Reich Minister of Justice, 23 March 1938, concerning compulsory labor of prisoners before trial.	420
Sommer 44	Sommer Ex. 41.	Affidavit of Hermann Pister, commandant of concentration camp Buchenwald, concerning "Special Treatment" there.	478

Document No.	Exhibit No.	Description	Page
Volk 25	Volk Ex. 13....Extracts from Ordinance of Reich President Hindenburg "For the Protection of People and State", 28 February 1933.	417

TESTIMONIES

	Page
Extracts from testimony of prosecution witness Dr. Victor <i>Abend</i>	641
Extracts from testimony of defense witness Helmut <i>Bickel</i>	459, 685, 784, 812
Extracts from testimony of prosecution witness Jerzy <i>Bielski</i>	407, 650
Extracts from testimony of defendant <i>Fanslau</i>	347, 451
Extracts from testimony of defendant <i>Frank</i>	448, 607, 752
Extracts from testimony of prosecution witness SS Doctor Karl <i>Kahr</i>	394
Extract from testimony of prosecution witness Dr. Bernhard <i>Lauber</i>	412, 646
Extracts from testimony of defendant Georg <i>Loerner</i> ..	334, 553, 744, 805
Extracts from testimony of defendant <i>Mummenthey</i>	563
Extracts from testimony of defendant <i>Pohl</i>	319, 430, 555, 593, 664, 742, 789, 802
Extracts from testimony of defendant <i>Sommer</i>	345, 453, 595, 676
Extracts from testimony of defendant <i>Vogt</i>	764, 789
Extracts from testimony of defense witness SS General Karl <i>Wolff</i>	678, 768, 786, 803